REPORT

OF THE

ALL-INDIA BAR COMMITTEE

PRINTED AT THE PRESIDENT'S PRESS, RASHTRAPATI BHAVAN, NEW DELHI,
PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI,
1953.

L. D. 70
5,000

REPORT

OF THE

ALL-INDIA BAR COMMITTEE

PRINTED AT THE PRESIDENT'S PRESS, RASHTRAPATI BHAVAN, NEW DELHI,
PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI,
1953

REPORT OF THE ALL-INDIA BAR COMMITTEE.

A—INTRODUCTORY.

This Committee was constituted by the Government of India (Ministry of Law) Resolution No F. 60-XXV/51-L, dated the 15th December, 1951. By that Resolution the Committee was asked to examine and report on:—

(*a*) The desirability and feasibility of a completely unified Bar for the whole of India;

(*b*) the continuance or abolition of the dual system of counsel and solicitor (or agent) which obtains in the Supreme Court and in the High Courts at Bombay and Calcutta;

(*c*) the continuance or abolition of different classes of legal practitioners, like advocates of the Supreme Court, advocates of the various High Courts, district court pleaders, mukhtars (entitled to practise in criminal courts only), revenue agents, income-tax practitioners, etc.;

(*d*) the desirability and feasibility of establishing a single Bar Council—

(*a*) for the whole of India, or

(*b*) for each State;

(*e*) the establishment of a separate Bar Council for the Supreme Court;

(*f*) the consolidation and revision of the various enactments (Central as well as State) relating to legal practitioners; and

(*g*) all other connected matters.

2. The constitution of the Committee was as follows:—

CHAIRMAN:

The Hon'ble Shri S. R Das, Judge, Supreme Court of India.

MEMBERS:

Shri M. C. Setalvad, Attorney-General for India,

Dr. Bakhshi Tek Chand, Retired High Court Judge,

Shri V. K. T. Chari, Advocate-General of Madras,

Shri V. Rajaram Aiyar, Advocate-General of Hyderabad,

Shri Syed M A. Kazmi, M.P., Advocate, Allahabad,

Shri C. C. Shah, M.P., Solicitor, Bombay,

Shri D. M Bhandari, M.P., Advocate, Rajasthan High Court.

SECRETARY:

Shri P. N Murty, Registrar, Supreme Court of India.

3 With a view to facilitate work and bring about expedition, the Secretariat of the Committee prepared a preliminary draft of the Questionnaire to be issued by the Committee, which was considered by the Chairman and the two other local members, at an informal meeting held on the 20th January, 1952, and directed to be circulated to the Committee for discussion and settlement

4. The preliminary draft came up for consideration before a meeting of the Committte held on the 16th February, 1952 The draft Questionnaire was revised and settled after a full discussion at the first meeting of the Committee, which was attended by all the members of the Committee. The Committee directed that the Questionnaire be printed immediately and issued to the public.

together with the Secretary's forwarding letter, the draft of which was also approved. The time allowed for the submission of answers was one month. At that meeting, the Committee discussed also the desirability of oral examination of witnesses and arrived at the conclusion that the consideration of the question should be deferred until after the receipt of the answers to the Questionnaire, so that it might then be possible to determine the extent to which such an inquiry might be undertaken. A copy of the Questionnaire is annexed hereto and marked "A".

5. The object of the Questionnaire was to elicit opinions on particular aspects of the question, to provide a basis for oral inquiry at a later stage, if considered necessary, and enable the Committee to focus attention on particular points which seemed to require further elucidation. Copies of the Questionnaire, numbering more than 1,000, were circulated to Hon'ble Judges of the Supreme Court and of the High Courts in "Part A" and "Part B" States, Judicial Commissioners in "Part C" States, Bar and other Legal Associations, retired Judges of the Federal Court and High Courts, prominent individual lawyers, Universities generally and Law Faculties and Colleges particularly, commercial bodies, and other interested public bodies throughout India.

6. The next meeting of the Committee was held on the 17th of May, 1952. Under the Government of India Resolution referred to above, the Committee was to complete its enquiry and submit its report to the Government of India, Ministry of Law, by the 1st June, 1952. But as a large number of Bar Associations, individual Judges and prominent members of the Bar, had specially asked for extension of time, the Committee at their second meeting unanimously decided that the time for the submission of answers to the Questionnaire should be extended till the end of June, and that the date for the submission of its report to the Government should be extended till the 1st of January, 1953. Accordingly, the Secretary in his letter dated the 20th May, 1952, to the Government of India (Ministry of Law), made a formal request that the duration of the Committee's enquiry be extended to 1st January, 1953. Subsequently it was found necessary to ask for a further extension of time till the end of March 1953.

The question of recording oral evidence was considered at the meeting, and the Committee decided to limit the scope of the oral inquiry and to invite select representative bodies and individuals to New Delhi for examination in November and December, 1952. On grounds of economy, the Committee decided not to undertake visits to the different States; and for the same reason they decided that witnesses desiring to tender oral evidence should be requested to come to New Delhi at their own expense.

7. The third meeting of the Committee was held on the 4th of October 1952, at which the Committee discussed generally the various memoranda submitted to it in answer to the Questionnaire. In all, 124 written answers were received. The names of the individuals, associations and institutions who submitted memoranda to the Committee are set out in the statement hereto annexed and marked Annexure B. Among those who submitted memoranda to the Committee were: four High Courts, 17 High Court Judges (individually), 35 Bar and other Associations, one Judge of the Supreme Court, two former Chief Justices of India, and a former Judge of the Federal Court, prominent lawyers and educationists in the different States, and a number of Senior Advocates of the Supreme Court. The Chief Justice and six other Judges of the Supreme Court favoured the Committee with their opinion confining themselves, however, only to the question of the continuance or otherwise of the "dual" system in that Court. The Chairman of the Committee of course did not attend the meeting of the Judges held for the purpose or participate in the deliberations of the Hon'ble Judges of the Court on that occasion.

8. In the light of the memoranda so received, the Committee directed the Secretary to issue invitations to select Bar and other Associations, prominent individual lawyers and educationists to tender oral evidence on the 6th, 7th and 8th November, and again on the 6th and 7th December, by way of supplementing the answers furnished by them. Pursuant to such directions, invitations were issued by the Secretary to a number of Associations, individuals and educationists. The names of the Associations, together with those of their respective representatives, the individuals and the educationists who favoured the Committee with their oral evidence are set out in the statement hereto annexed and marked Annexure C.

The Committee decided to take advantage of the presence in New Delhi of the Hon'ble Shri B. Jagannadhadas, Chief Justice of Orissa, and sat specially on the 6th October, 1952, to record his oral evidence, which dealt, among others, with the special features of the profession in the State of Orissa.

9. Sri M. C. Setalvad (the Attorney-General for India), who is a member of this Committee, contacted some friends who are leading lawyers in Canada, Australia, and U.S.A. and obtained up-to-date information regarding the organisation of the Bar in those countries. The names and designations of those gentlemen are:—E. C. Gowling, Esqr., Gowling, Mactavish, Osborne and Henderson, Barristers and Solicitors, 88, Metcalfe Street, Ottawa 4, (Canada); H. C. Alderman, Esqr., Law Council of Australia, 24, Weymouth Street, Adelaide (Australia); Edward B. Love, Esqr., Director of Activities, American Bar Association, 1140, North Dearborn Street, Chicago 10, Illinois; and Cody Fowler, Esqr., President of the American Bar Association, Citizens' Building, Tampa 2, Florida (U.S.A.).

The information thus obtained was placed before the Committee.

10. The Committee desires to acknowledge its indebtedness to the Hon'ble the Chief Justice and Judges of the Supreme Court, the Hon'ble Judges of the several High Courts, the two *ex*-Chief Justices of India, and the *ex*-Judges of the Federal Court and of several High Courts, the Associations, educationists and other persons who were good enough to assist the Committee by submitting their respective memoranda in answer to the Questionnaire issued by the Committee. The Committee are further beholden to those Associations, educationists and other persons who took the trouble of appearing before the Committee and elucidating their opinions in oral evidence. The Committee takes this opportunity to thank these Associations and individuals for the valuable assistance they have rendered to the Committee in this enquiry.

11. After the close of oral evidence, the Committee held three sittings (29th, 30th and 31st December 1952) for discussing and analysing the materials available before it and considering the various problems involved in the terms of reference set before it. A draft report on the lines tentatively agreed upon was circulated amongst the members, and the Comimttee held two sittings on the 14th and 15th February, 1953, to discuss and settle the draft report. The draft report as settled having again been circulated, the Committee finalised the same at its meeting held on the 7th March, 1953. The members of the Committee feel great satisfaction in finding themselves in general agreement on most of the points.

B.—A SHORT HISTORY OF THE LEGAL PROFESSION AS IT NOW EXISTS IN INDIA.

(*a*) Preliminary observations.

12. It will not be an exaggeration to say that the present legal system prevailing in India owes its origin to those Britishers who came to this country as traders but eventually established themselves as sovereign rulers of this vast sub-continent. The organization and growth of a regular hierarchy of courts of

justice with the superior Courts of record at the apex and inferior petty courts at the base are wrapped up with the history of the gradual ascendancy of British power in India. The legal profession as it exists in India today is the natural outcome of India's legal system. It is not for the Committee to assess the merits or demerits of the legal system itself. It is only concerned with the limited question relating to the qualification of the legal profession and to the creation of an All-India Bar. The task of the Committee, therefore, presupposes the continued existence of the present legal system out of which, as its corollary, has grown up the legal profession which one finds in India today. In order to deal with and solve the difficult and complicated problems connected with the legal profession in India the Committee has necessarily to study the history of the creation and the gradual development of the Indian legal profession in modern times.

(*b*) KING'S COURTS (1726—1862).

13. As stated in Morley's *Administration of Justice in British India* (1858 Edn. at page 5) 'the earliest power emanating from Crown for the administration of justice in India dates as far back as the reign of James I who by Charter granted in 1622 authorised the Old East India Company to chastise and correct all English persons residing in the East Indies and committing any misdemeanour, either with martial law or otherwise". By a Charter dated the 3rd April, 1661, issued in the 13th year of the reign of Charles II power was given to the Governor and Council of the several places in India then belonging to the Company to administer justice also to non-Europeans, for it empowered the Governor and Council 'to judge all persons belonging to the said Governor and Council or that should live under them, in all causes, whether civil or criminal, according to the laws of the Kingdom and to execute judgment accordingly". The words "all persons" used in that Charter were wide enough to include also non-Europeans who lived within the factories of the Company. One cannot also fail to note that the judging was to be "according to the laws of the Kingdom", which meant English law.

14. Under the marriage treaty made on the 23rd June, 1661, at the time of the marriage of King Charles II with Infanta Catherine of Braganza the King of Portugal made a present of the island of Bombay to the British Crown. By the Charter dated the 27th March, 1669, King Charles II transferred the island to the East India Company who thereupon became "the absolute Lords and Proprietors of the Port and Island" at and for the rent of £10 per annum. Ever since then justice was administered in the island of Bombay under the authority of the Crown of England and not under the authority or jurisdiction legally derived from the Moghul Court. The position was, however, different in Bengal. When Bombay came under the sway of the Company, the latter had not acquired a sure footing in Bengal. Job Charnock established a settlement in Calcutta after the Company had in 1694 purchased the three villages of Sutanati, Govindpur and Calcutta with the consent of the Nawab of Bengal. By this purchase the Company acquired the status of a zamindar in Bengal. The Company had by then also established a settlement in Madras then called Madraspatnam.

15. By a Charter granted by King George I on 24th September, 1726, a Court of Record in the name of Mayor's Court and a Court of Record in the nature of a Court of Oyer and Terminer and Gaol Delivery were established in Madras, Bombay and Calcutta. The Mayor's Court was "to try, hear and determine, all Civil Suits, Actions and Pleas, between Party and Party, that shall or may arise, or happen, or that have already arisen, or happened" within the said three towns or within any of the Factories subordinate thereto. The proceedings in the Mayor's Court had to be instituted "upon Complaint to be made, in Writing, to the said Court by, for, or on the behalf of any Person or Persons against any other Person or Persons whatsoever, then residing or being,

or who at the time when such Cause of Action did or shall accrue, did or shall reside, or be within the said territories" Provision was made for issuing of Summons or Warrant for procuring the appearance of the Defendant. The Court was authorised "to administer Oaths and to frame such Rules of Practice and nominate and appoint such Clerks and Officers, and to do all such other Things as shall be found necessary, for the Administration of Justice", and to settle a Table of the Fees to be allowed to such Clerks and Officers. The Court was required to "give Judgment and Sentence according to Justice and Right", that is to say, according to English common law and rules of equity. There was an Appeal to the Governor or President in Council. The Court of Oyer and Terminer was constituted "for the trying and punishing of Offenders and Offences (High Treason only excepted) had, committed or done, or to be had, committed or done" within any of the said Towns and Factories. The trial was to be conducted "in the same or the like manner and form" as "in that part of Great Britain called England". There was no specific provision in this Charter laying down any particular qualification to be possessed by persons who would be entitled to act or plead as legal practitioners for suitors in those Courts. Presumably it was left to be regulated by the rules of practice which the Court was authorised to frame. The procedure was an adaptation of the English procedure. The language of the Court also appears to have been English.

16. In 1746 Madras was captured by the French and the Mayor's Court at Madras ceased to exist and function. After the peace treaty of Aix-La-Chappelle of 1749 Madras was restored to the East India Company. The Company surrendered the Charter of 1726 and George II granted to the Company a fresh Charter dated the 8th January 1755. By this Charter the King's Courts (Mayor's Court and the Court of Oyer and Terminer) were re-established in the three settlements with the same jurisdictions and powers as in the Charter of 1726 except that the Mayor's Courts were enjoined not to try suits or actions among the Indians unless both parties by consent submitted their disputes for determination by the Mayor's Courts. These Courts were very favourably regarded by the Indians who frequently resorted to them They derived their jurisdictions and powers directly from the British Sovereign and functioned right up to 1774.

17. The Regulating Act of 1773 (13 Geo. III C. 63) authorised the King by Charter or Letters Patent under the Great Seal of Great Britain to erect and establish a Supreme Court of Judicature at Fort William in Bengal with "full power and authority to exercise and perform all Civil, Criminal, Admiralty and Ecclesiastical jurisdiction" and "to form and establish such Rules of Practice and such Rules for the processes of the said Court and to do all such other things as would be found necessary for the administration of justice". Section 19 of that Act also provided that on the establishment of such Supreme Court the Mayor's Court at Calcutta would cease to function. Pursuant to this Act a Charter was issued on the 26th March, 1774, establishing the Supreme Court of Judicature at Fort William in Bengal. Clause 11 of that Charter provided as follows:—

> "11. And we do hereby further authorise and empower the said Supreme Court of Judicature, at Fort William in Bengal, to approve, admit and enrol such and so many Advocates and Attornies-at-Law, as to the said Supreme Court of Judicature at Fort William in Bengal, shall seem meet, who shall be Attornies of Record, and shall be, and are hereby authorised to appear and plead, and act for the suitors of the said Supreme Court of Judicature, at Fort William in Bengal, and the said Advocates and Attornies, on reasonable cause, to remove; and no other person or persons whatsoever, but such Advocates or Attornies, so admitted and enrolled, shall be allowed to appear and plead, or act in the said Supreme Court of Judicature, at Fort William in Bengal, for or on the behalf of such suitors, or any of them."

The language of the Supreme Court thus established was English and the Court was directed to give judgment and sentence according to "justice and right" which words, from the days of the Mayor's Court, were understood to mean English Common Law and rules of Equity only. The persons entitled to practise before the Court were (1) "Advocates" which expression then extended only to English and Irish Barristers and Members of the Faculty of Advocates in Scotland and (2) "Attornies" which then meant only the British Attorneys or Solicitors. The important thing to note is that in Clause 11 there was an express provision that "no other person whatsoever" would be allowed to appear and plead or act. The Court was, therefore, at its inception, a completely exclusive preserve for members of the British legal profession, namely, the British Barristers, Advocates and Attorneys. The indigenous Indian legal practitioner had no entry into this court.

18. It is well-known that soon after the establishment of the Supreme Court in Bengal serious conflicts and dissensions arose between the Judges of that Court and the Governor-General and Council of Bengal. Eventually, the conflicts and dissensions were composed by the Act of Settlement, 1781 (21 Geo. III C. 70). Section 8 of that Act took away from the Supreme Court all jurisdiction "in any matter concerning the revenue or concerning any act or acts ordered or done in the collection thereof, according to the usage and practice of the country, or the regulations of the Governor-General and Council". Such was the distrust of the executive authorities as regards the jurisdiction and powers of the Superior Courts that subsequent statutes up to the Government of India Act, 1935, creating or continuing the High Courts always had a section substantially reproducing this section. The Act of Settlement did not bring about any change in the organization of the legal profession so far as the Supreme Court was concerned. It did, however, by Section 23, empower the Governor-General and Council, from time to time, to frame regulations for the provincial courts, reserving a right to the King in Council to disallow or amend the same within two years.

19. Similar Supreme Courts with like jurisdictions and powers were also established at Bombay and Madras. The Charters constituting those courts also directed each of them to give judgment and sentence according to "justice and right" which meant English Common Law and the rules of equity and each of them was given similar power to approve, admit and enrol Advocates and Attorneys which expression then meant only British Barristers and Advocates and British Attorneys. Therefore in the Supreme Courts at Bombay and Madras, as in the Supreme Court at Fort William in Bengal, only British Barristers, Advocates and Attorneys were eligible for enrolment. Such was the position of the legal profession in the Supreme Courts which, like their predecessors, the Mayor's Courts, were called the King's Courts as opposed to the Company's Courts to which reference may now be made.

(c) Company's Courts.

20. Immediately before the advent and rise of the British power in India administration of justice in Northern India was in the hands of courts established by the Moghul Emperors or ruling chiefs owing real or pretended allegiance to them. Apart from the ruling chiefs, petty chieftains and big Zamindars had courts exercising both civil and criminal jurisdictions. There existed in that period in the history of India a class of persons called Vakils who acted more as agents for principals than as lawyers. Their services were available to litigants in those indigenous courts. Before 1757 the establishment of the Company at Calcutta had been almost exclusively commercial and the Company was chiefly concerned with the management of its own factory at Calcutta and exercising jurisdictions and powers over Englishmen residing in the East Indies. After the battles of Plassey in 1757 and of Buxar in 1764 Lord Clive acquired from the Moghul Emperor the Diwani of Bengal, Bihar and Orissa and consequent on such acquisition the Company assumed far greater territorial responsibilities.

Originally the civil and judicial administration of these territories was managed through Indian Diwans, but shortly after the arrival of Warren Hastings in 1772 the civil and judicial administration of the mofussil territories outside the town of Calcutta was undertaken by the Company itself. For civil justice Provincial Civil Courts styled Mofussil Dewanny Adawlats were established in each Collectorate with a superior civil court of appeal at Calcutta called the Sudder Dewanny Adawlat. For criminal justice criminal courts styled Foujdary Adawlats were also established in each district with a superior criminal court called the Sudder Nizamat Adawlat. These Courts were run by the Company originally as Zamindar and later on as Diwan, legally deriving authority from the Moghul Emperor. In these days no King's Court could be established openly in those territories for in the eye of the law the Company was ostensibly only a Zamindar or Diwan under the suzerainty of the Moghul Emperor, however nominal it may have been in actual fact. The language of those courts was Persian. In or about 1774 six Provincial Councils were established for the six divisions of Calcutta, Burdwan, Dacca, Moorshidabad, Dinapur and Patna. In 1775 the Sudder Nizamat Adawlat was removed from Calcutta to Moorshidabad. By Bengal Judicial Regulation of 1780 six Dewanny Adawlats were established in each of the six divisions. Appeals lay from the Amils to the Divisional Dewanny Adawlats and thence to the Sudder Dewanny Adawlat. Under Section 7 of Bengal Regulation III of 1793 all persons other than "British subjects" which before 1857 meant only British born subjects were amenable to the jurisdiction of the Zilla and City courts. Section 8 of that Regulation enumerated the different kinds of suits which were cognisable by those courts. Bengal Regulation IV of 1793 by Section 15 required the courts to give judgment according to "Justice and Right"—expressions used in the Charters of 1726 and 1759 with reference to the Mayor's Courts and in the Charter of 1774 with reference to the Supreme Court at Calcutta. Later on Section 9 of Bengal Regulation VII of 1832 enjoined the Mofussil Courts to give judgment according to the principles of justice, equity and good conscience, it being stated to be clearly understood that these words should not be considered as justifying the introduction of the English or any foreign law.

It appears from Cowell's *History and Constitution of the Courts and Legislative Authorities in India* 6th Edition, P. 188, that Courts of Civil and Criminal Judicature were constituted by the Bombay Government in or about 1797 and by Bombay Regulation IV of 1827 the system of Judicature was remodelled on the lines of the Bengal Regulations of 1793.

In Madras the Adawlat system, civil and criminal, was introduced in the year 1802 on the model of the system prevalent in Bengal.

In 1831 a Court of Sudder Dewanny Adawlat was established for the North-Western Provinces with similar powers.

The law of procedure of all the Mofussil Courts was sought to be simplified and consolidated by the Code of Civil Procedure of 1859 (Act VIII of 1859).

21. As regards legal practitioners acting and pleading in the Company's Courts it appears that the class of Vakils practising before the Moghul Courts subsequently appeared in the Company's Courts. Bengal Regulation VII of 1793 may be said to have created for the first time a regular legal profession for the Company's Courts. That Regulation called itself one "for the appointment of Vakils or native pleaders in the courts of civil judicature in the Provinces of Bengal, Bihar and Orissa". It empowered the Sudder Dewanny Adawlat to enrol pleaders for all Company's Courts and to fix the retaining fee for pleaders and also a scale of professional fee based on a percentage of the value of the property. The extraordinary feature of that Regulation was that under it only Muslims and Hindus could be enrolled as pleaders. Then came Bengal Regulation XXVII of 1814 which consolidated the law on the subject. The pleaders were empowered to act as arbitrators and to give legal opinions on payment of

fees. The next important piece of legislation was Bengal Regulation XII of 1833 which modified the provisions of the earlier Regulations regarding the selection, appointment and remuneration of these pleaders. It permitted any qualified person of whatever nationality or religion to be enrolled as a pleader of the Sudder Dewanny Adawlat. The Legal Practitioners Act, 1846 (I of 1846) made three important innovations, namely, (1) that people of any nationality or religion became eligible to be pleaders and the office was thrown open to all persons duly certificated; (2) Attorneys and Barristers enrolled in any of Her Majesty's Courts in India were by Sections 3 and 5 respectively made eligible to plead in the Sudder Courts of the Company subject to the rules of those courts as regards language or otherwise; and (3) Pleaders were allowed to enter into agreements with their clients for their fees for professional services. By Section 4 of the Legal Practitioners Act, 1853 (XX of 1853) the Barristers and Attorneys of the Supreme Courts were permitted to plead in any of the Courts of the Company subordinate to the Sudder Courts subject to all the rules in force in the said subordinate courts as regards language or otherwise. While Barristers and Attorneys were thus permitted to practise in the Company's Courts, the indigenous Indian legal practitioners were rigorously kept out of the three Supreme Courts. Then came the upheaval of 1857. By Act 21 & 22 Vic. C. 106 commonly called the Government of India Act, 1858, the British Crown took over the administration of the territories theretofore governed by the Company and the Company thereafter retained only a formal existence for the purpose of its financial liquidation.

(*d*) High Courts and Chief Courts: (1862—1922).

22. The Indian High Courts Act, 1862 (24 & 25 Vict. C. 104) was passed by the British Parliament authorising the creation by Letters Patent of High Courts in the several Presidencies in place of the respective Supreme Courts and the Sudder Diwanny Adawlats and Sudder Nizamat Adawlats which were to be abolished on the establishment of the High Courts. Section 11 of that Act provided that the existing provisions applicable to the Supreme Courts would continue to be applicable to the new High Courts. In 1862 Letters Patent were issued setting up a High Court in Calcutta. Those Letters Patent were, however, replaced by the Letters Patent of 1865. Similar Letters Patent were also issued establishing High Courts at Bombay and Madras. On the establishment of these three High Courts all the Courts throughout the territories known as British India became, for the first time and in the full sense of the word, Crown Courts and were brought for the first time under one unified system of control. Broadly speaking the High Courts thus established became the successors of the Supreme Courts as well as of the Sudder Courts and combined in themselves the jurisdictions of both sets of the old Courts. All the jurisdictions of the Supreme Courts, civil, criminal, admiralty and vice-admiralty, testamentary, intestate and matrimonial, original and appellate, and the power and authority of those Courts and the appellate jurisdiction of the Sudder Dewanny Adawlat and the Sudder Nizamat Adawlat became vested in the High Courts, the original jurisdictions being exercisable by the Original Side of the High Courts and the Appellate jurisdictions being exercisable by the Appellate Side thereof Clause 19 of the Letters Patent of 1865, read with Clause 18 of the Letters Patent of 1862, ordained that in the exercise of its ordinary original civil jurisdiction the High Court should apply the same law or equity as would have been applied by the Supreme Court which meant English Common Law and rules of equity as modified by Indian legislation. Clause 21 of the Letters Patent of 1865 required that in the exercise of its appellate jurisdiction the High Court should apply the law or equity and rule of good conscience which the court in which the proceedings were originally instituted ought to have applied to such proceedings. It should be recalled that the Mofussil Courts were strictly precluded from introducing any English or

foreign law under the cover of the words "justice, equity and good conscience". Clause 37 of the Letters Patent empowered the High Court to make rules and orders for regulating all proceedings in civil cases that might be brought before it and directed that in making such rules it should be guided, as far as possible, by the provisions of the Code of Civil Procedure, 1859. In short, on the Original Side of the High Court English law and rules of equity continued to be administered as before and on the Appellate Side local laws were applied.

23. After the establishment of the High Courts, the civil courts were organised in Bengal, the North-Western Provinces and Assam by the Bengal, Agra and Assam Civil Courts Act, 1887 (XII of 1887). By Section 3 of that Act a regular hierarchy of courts was established, namely, the Courts of the District Judge, the Additional District Judge, the Subordinate Judge and the Munsif. Similar Civil Courts Acts were passed in other provinces. The Criminal Procedure Code of 1898 reorganised the Criminal Courts into five classes, namely, the Courts of Session, Presidency Magistrates, Magistrates of the first, second and third classes. The High Courts were given a general power of superintendence over the civil and criminal courts in the Motussil.

24. As regards the legal practitioners, Clause 9 of the Letters Patent of 1865 provided as follows:—

> "9. And we do hereby authorise and empower the said High Court of Judicature at Fort William in Bengal to approve, admit, and enrol such and so many Advocates, Vakeels, and Attornies as to the said High Court shall seem meet; and such Advocates, Vakeels, and Attornies shall be and are hereby authorised to appear for the suitors, of the said High Court, and to plead or to act, or to plead and act, for the said suitors, according as the said High Court may by its rules and directions determine, and subject to such rules and directions."

25. As regards a High Court not established by Royal Charter, Section 41 of the Legal Practitioners Act, 1879, empowered such High Court, with the previous sanction of the Provincial Government, to make rules as to the qualifications and admission of proper persons to be Advocates of the Court.

26. A High Court was established at Allahabad by Letttrs Patent dated the 17th March, 1866.

27. The Punjab was annexed by the British in March 1849. By a Resolution of the Governor-General-in-Council (Foreign Department) dated the 4th of February 1853, it was constituted into a Chief Commissioner's Province and a Judicial Commissioner was appointed as the Head of the Judiciary. He continued to function for 13 years when by Act IV of 1866 passed by the Governor-General-in-Council, the Chief Court of the Punjab was established at Lahore.

Section 10 of the Punjab Chief Court Act of 1866 laid down qualifications of persons who were permitted to appear and act as Pleaders in the Chief Court. This Section ran as follows:—

> "Any person duly authorised by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading, or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces, shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been

previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court."

This was repealed some years later when the Legal Practioners Act was passed by the Indian Legislature and the Chief Court framed Rules thereunder laying down that any person who was a Member of the English Bar or of the Faculty of Advocates in Scotland was eligible for admission as an Advocate. There were two classes of Pleaders:—

(i) Pleaders of the first grade entitled to practise before the Chief Court and

(ii) Pleaders of the second grade entitled to practise before Subordinate Courts.

The qualification for admission as a second grade Pleader was a Diploma for having passed the "Licentiate-in-law" examination held by the University which was open to students who had gone through a course of teaching in the Law College extending over three years. After practising in the Subordinate Courts for two years, Pleaders of the second grade were eligible to be enrolled as Pleaders of the first grade. Rules were also framed for admission of *Mukhtars*. Under the Rules as amended in 1890 *Mukhtars* of the First Grade were permitted to appear in the Chief Court. A noteworthy feature was that unlike in Bengal and other provinces, a *Mukhtar* in the Punjab could appear before Subordinate Civil Courts and also in Criminal Courts. Fresh recruitment of *Mukhtars* in the Punjab was stopped in 1914, but those who had been already enrolled were permitted to continue to practise as before. The Chief Court at Lahore continued to function till the 1st of April, 1919, when the Lahore High Court was established by Letters Patent dated the 21st March, 1919. This High Court has been succeeded by the East Punjab High Court since the partition of the Punjab in 1947.

28. A Judicial Commissioner's Court was established at Lucknow as the highest Court for Oudh by Oudh Civil Courts Act 1871. In 1925 by U.P. Act IV of 1925 this Court was raised to the status of a Chief Court which functioned until 1947, when it was merged with the Allahabad High Court and became the Lucknow Bench of that High Court.

29. Bihar was originally under the appellate jurisdiction of the Calcutta High Court. On the separation of Bihar from Bengal and the creation of the new Province of Bihar a High Court was established at Patna by Letters Patent dated the 9th February, 1916.

30. By Act XVI of 1885 a Judicial Commissioner's Court was constituted for the Central Provinces as the highest Civil Court of appeal. It was converted into a Chief Court by Act I of 1917 and has since been raised to the status of a Chartered High Court by Letters Patent issued in 1936.

31. Clause 7 of the Letters Patent of each of these new High Courts corresponds to Clause 9 of the Letters Patent of Calcutta, Bombay and Madras High Courts. None of these High Courts had or has any Ordinary Original jurisdiction.

32. Each of the Chartered High Courts framed rules under the relevant clauses of their respective Letters Patent mentioned above. Broadly speaking in the High Courts there were, apart from the Attorneys, two classes of lawyers. One class was called Advocates who were mainly Barristers of England or Ireland or Members of the Faculty of Advocates of Scotland. In addition to the primary qualification of being called to the Bar in England, Ireland or Scotland some of the High Courts required some additional qualification in the shape of reading in the Chambers of a practising Barrister in England and a certain number of years' education in England. High Courts, other than the Calcutta High Court,

also permitted non-Barristers to be enrolled as Advocates, *e.g.*, in Bombay those Bachelors of Laws of the Bombay University who passed an examination held under the direction of the High Court, and in Madras Advocates of Calcutta, Bombay and Allahabad and Masters of Laws of the University of Madras who had studied for 18 months with an Advocate of the High Court of Madras were eligible for enrolment. In Allahabad, apart from the Barristers, Doctors of Laws of the University of Allahabad who had practised for three years in the United Provinces and Advocates of Calcutta and Attorneys and Vakils of 10 years' standing were also eligible on the invitation of the Chief Justice and Judges. In Patna, Doctors of Laws of Allahabad or Calcutta who had practised for three years in Bengal or Bihar and Orissa were entitled to be enrolled as Advocates. There was a provision similar to that in force at Allahabad for Attorneys and Vakils of 10 years' standing. In Lahore, in addition to the Barristers, First Grade Pleaders who had practised for not less than 10 years including 5 years within the jurisdiction of the High Court or who were Doctors of Laws of the Punjab University, were made eligible for enrolment as Advocates.

33. The other class of lawyers in the High Court was called "Vakils". The qualifications required for admission as a Vakil in Calcutta were the degree of Bachelor of Arts or Science followed by the degree of Bachelor of Laws and two years' service as an Articled Clerk to an approved practising Vakil of 5 years' standing. The holder of a law degree in an Indian University was also admitted after 4 years' *bona fide* practice as a Pleader in a Subordinate Court. Three years' practice as an Attorney of the High Court also entitled the Attorney to be enrolled as a Vakil subject, in the last two cases, to the candidate passing an examination mainly in procedure held by the Judges in Chambers. In Bombay a Matriculate of the Bombay University or an Attorney could be admitted as a Vakil on passing an examination prescribed by the High Court but a Bachelor or Master of Laws was eligible without further qualification. In Madras a Bachelor of Laws was admitted as a Vakil after passing an examination in Procedure and practice and serving one year's apprenticeship with a practising Advocate, Vakil or Attorney. A Bachelor of Laws of Allahabad or Calcutta was also admitted after similar apprenticeship. A Bachelor of Laws who had practised for five years as a Pleader in a District or Subordinate Court could also be admitted as a Vakil. In Allahabad the holder of a degree of LL B. of the Allahabad University or a B.L. of Calcutta or Madras University was entitled to be enrolled in the High Court as a Vakil after two years' *bona-fide* practice in the Subordinate Courts. In Patna the High Court required the possession of the degree of B.A. or B.Sc. together with a degree of B.L. or LL.B. of an Indian University and two years' service as an Articled Clerk under an approved practising Vakil of the High Court as the requisite qualification for enrolment as a Vakil. A pleader holding the degree of B.L who had practised for 4 years in a Subordinate Court and an Attorney of three years' practice in a High Court could also be admitted subject to his passing an examination in law and procedure prescribed by the High Court. The Lahore rules admitted English, Scottish and Irish Solicitors. Vakils or Attorneys with three years' practice in chartered High Courts who passed an examination in the Revenue Law, Procedure and Customary Law of the Punjab and persons who obtained Honours in Law of the Punjab University were enrolled as Vakils. Second Grade Pleaders of two years' standing, if they had a law degree of the Punjab University, or of three years' standing if they held a law degree of another University and of 5 years' standing if they had no degree, could also be admitted as Vakils.

34. The High Courts of Calcutta, Bombay, Madras, Allahabad and Patna all prescribed qualifications for enrolment of Attorneys. It is necessary only to refer to the rules of the Calcutta and Bombay High Courts where the Attorneys are practising in large numbers. In Calcutta they have to serve as Articled Clerks for five years and in Bombay for three years. They have to pass three examinations in Calcutta and one in Bombay. The attorneyship examinations

are held under the auspices of the High Court and are well-known for their high standard. According to the Calcutta rules a candidate has to secure 50 per cent. marks in each subject and 62½ per cent. in the aggregate. As Articled Clerks they get thorough practical training which well equips them for the profession they choose to adopt.

35. Besides the Advocates, Attorneys and Vakils of the High Courts there were different classes of legal practitioners ordinarily practising in the District and other Subordinate Courts. The setting up of a regular hierarchy of civil and criminal courts of varying jurisdictions and importance necessarily led to the creation of different categories of legal practitioners in the mofussil and the paucity of law graduates in those days necessitated the granting of permission to non-graduate lawyers to practise in the inferior courts. Under rules framed by the High Courts under Section 6 of the Legal Practitioners Act law graduates who did not possess the additional qualifications required for enrolment as Vakil of the High Court and non-graduates who could pass the pleadership examination held by the High Court were given certificates entitling them to act and plead as pleaders in the District and other subordinate courts. These pleaders had no entry into the High Court unless after a certain number of years' practise in subordinate courts they became enrolled as High Court Vakils. In some of the Provinces there were pleaders of several grades, *e.g.*, first, second and even third grades. Besides the pleaders there was and is another class of legal practitioners in the subordinate courts called *Mukhtars*. They were generally persons who had after passing the Entrance examination corresponding to the Matriculation examination of the later times passed the Mukhtarship examination held by the High Court. Although their Sanads or licences permitted them to practise in all Subordinate Courts they were, by reason of the High Court Rules and Orders, mainly confined to acting and pleading in the criminal courts in the mofussil—a fact which has been made a grievance of in the memoranda filed by them and in the evidence given by their representatives before the Committee. These *Mukhtars* are not permitted to plead in any subordinate civil court, not to talk of the High Court. Finally there was and still is another kind of legal practitioners known as Revenue Agents who are certificated and enrolled under rules made by the Chief Controlling Revenue Authority under Section 17 of the Legal Practitioners Act, 1879. Their practice was and is confined to the revenue offices mentioned in their certificate and other offices subordinate thereto. In recent years there has grown up a body of men who appear before the Income-tax authorities. They are mostly persons well versed in accounts and most of them are not lawyers and do not come within the Legal Practitioners Act, 1879.

36. All the different grades of legal practitioners of the High Court (except the Attorneys) and of those of the Subordinate Courts (except the Revenue Agents) were, and are, subject to the disciplinary jurisdiction of the High Courts under the Legal Practitioners Act, 1879. The Attorneys of the High Courts as officers of the Court are, in matters of discipline, dealt with by the High Courts under the Letters Patent. The Revenue Agents are liable to be suspended or removed from practice by the Chief Controlling Revenue Authority.

37 The Legal Practitioners Act (XVIII of 1879), by Section 4, empowered an Advocate or Vakil on the roll of any High Court or a Pleader of the Chief Court of the Punjab to practise in all the courts subordinate to the Court on the roll of which he was entered and in all Revenue Offices situate within the local limits of the appellate jurisdiction of such Court subject to the rules in force relating to the language of the Court and also to practise in any Court in British India other than a High Court on whose roll he was not entered or with the permission of the Court in any High Court on whose roll he was not entered and in any Revenue Office. There was a proviso, however, to the section to the effect that this power would not extend to the Original jurisdiction of the High Court in a Presidency Town. Section 5 enabled an Attorney on the roll of any

High Court to practise in all the Courts subordinate to such High Court and in all Revenue Offices within the appellate jurisdiction of such High Court and also to practise in any court in British India other than a High Court on the roll of which he was entered and in any Revenue Court. Those two sections certainly constituted a wide enlargement of the rights of the Advocates, Vakils and Attorneys of the High Court in that they enabled those legal practitioners to exercise their profession in all Subordinate Courts in India.

38. In the Calcutta High Court the Advocates, *i.e.*, the Barristers of England and Ireland and the Advocates of Scotland, were alone entitled to appear and plead on the Original Side on the instructions of an Attorney. These Advocates were also entitled to appear and plead on the Appellate Side of the High Court and in the Subordinate Courts and Revenue Offices. But the Vakils of the Calcutta High Court were not entitled to act or plead on the Original Side or in appeals from the Original Side. This distinction was maintained in the Calcutta High Court right up to 1932.

39. The Madras High Court, however, as early as in 1886, altered its rules and under new Rules Nos. 4 and 5 permitted the Vakils admitted under the Rules of 1863 and the Attorneys to appear, plead and act for suitors on the Original Side. These rules were challenged by the Attorneys but were held to be valid. (*See in the Matter of the Petition of the Attorneys.* (1875) I.L.R. 1 Mad. 24 and *Namberumal Chetty V. Narasimhachari*, (1916) 31 M.L.J. 698.) The Insolvency Rules Nos. 128 and 129, however, permitted an Advocate to appear and plead in Court or in Chambers and an Attorney to appear, plead and act in all proceedings. Under these Rules the Barristers and Vakils could not act in the Insolvency Court. The result, therefore, was that in the Madras High Court there remained no distinction between Barristers, Vakils and Attorneys as regards their right to appear and plead on the Original Side. Under the new rules the Vakils and Attorneys could also act on the Original Side while the Advocates had to be instructed by an Attorney. In the Insolvency Court, however, Advocates and Vakils could appear and plead but the Attorneys alone could act.

40. In the Bombay High Court the Original Side was initially a close preserve for the Barristers as in the Calcutta High Court. There also the Barristers were originally the only persons who could be enrolled as Advocates entitled to appear and plead on the Original Side on the instructions of an Attorney. The Vakils were not originally permitted to act or plead on the Original Side. This position, however, was soon relaxed and, as already mentioned, a non-Barrister, on passing an examination conducted by the High Court became eligible for enrolment as Advocate entitled to appear and plead on the Original Side. Some of the very eminent Original Side Advocates of Bombay became enrolled as such on passing this examination. The only limitation was that the Advocates of the Original Side, Barristers or non-Barristers, had to be instructed by an Attorney before they could appear and plead on the Original Side.

41. In the other High Courts there was no Original Side and consequently there was no substantial distinction between the Advocates who were mainly Barristers and the Vakils of the High Court as regards their respective rights to appear, act and plead in those High Courts.

C. DEMAND FOR AN ALL-INDIA BAR.

(*a*) Its Genesis.

42. From what has been stated above it will be clear that in the Supreme Courts the British Barristers and Advocates alone could be enrolled as Advocates and British Solicitors alone could be enrolled as Attorneys. Indians, therefore, started going to England to qualify for the Bar or as Solicitors and to get enrolled

in the Supreme Court. As far as is known Ganendra Mohan Tagore, the plaintiff in the famous case of *Tagore v. Tagore* [4 B.L.R. (O.C.) 103; S.C. on appeal 9 B.L.R. 377-L.R.I.A. (Supp.) 47], appears to have been one of the earliest, if not the first Indian Barrister. Although Indians began to go to England and on return were enrolled in the Supreme Courts and later on in the High Courts as Advocates or Solicitors as the case may be, the British Barristers and Solicitors predominated on the Original Side for a considerable time. Thus in 1871 there were in Bombay 38 Solicitors of whom only 10 were Indians and the rest were English and 24 Advocates out of whom only 7 were Indians and the rest were English (see London *Times*, dated May 25, 1914). Gradually, however, the bulk of the practice on the Original Side passed from the hands of the English Barristers to those of the Indian Barristers. Thus in 1911 there were practising in Bombay 150 Solicitors out of whom 130 were Indians and 250 Advocates out of whom only 16 were British Barristers and the rest were Indians (See London *Times* supra). The High Courts other than the three in the Presidency towns had no Original Side and made no distinction between their Advocates and Vakils respecting their right to act and plead in the High Courts and the Courts subordinate thereto. In Madras after 1886 there was no distinction between the Advocates and the Vakils all of whom could act and plead in the High Court (except in the Insolvency Court) and in all subordinate courts. The Bombay High Court had at an early date thrown open its Original Side to non-Barristers who could pass a special examination. It was only in the Calcutta High Court that the Vakils were rigidly excluded from the Original Side. The Vakils who could count amongst their number many very eminent lawyers and jurists resented what they regarded as the inferior status of a Vakil. Their past grievances may be classified under the following heads, namely, (1) their total exclusion from the Original Side of the Calcutta High Court, (2) the compulsion of having to submit to an extra examination for enrolment as Advocate on the Original Side of the Bombay High Court, (3) the denial of their right to act on the Insolvency Side of the Madras High Court, (4) the invidious distinction arising out of the two appellations of Advocates and Vakils, (5) the arrogant air of superiority assumed by the rawest of Advocates on the score of his unmerited precedence over the ripest of Vakils, (6) the compulsion imposed on Vakils to file Vakalatnamas which Advocates were not required to do and the last but not the least (7) the distinction in the professional robes of the two sets of legal practitioners, particularly in Calcutta. These distinctions offended the self-respect of the Vakils. Sir Sunder Lal of Allahabad gave strong expression to this resentment and demanded the creation of an all-India Bar. The spirit of revolt then abroad and which was encouraged by the strong wave of nationalism added impetus to this demand. Resolutions supporting this claim were passed by Lawyers' Conference from time to time. Just about this time in 1921 giving his evidence before the Indian Students Inquiry Committee, popularly known as Lytton Committee, Viscount Haldane advocated the establishment of a Bar in India to which men should be called and the setting up of a Council to which all questions of legal education, control, enrolment and disciplinary action should be transferred. On 24th February 1921, Munshi Ishwar Saran moved the following resolution before the Legislative Assembly:—

> "This Assembly recommends to the Governor-General in Council that Government do undertake legislation with a view to create an independent Bar so as to remove all distinctions in force by statute or by practice between Barristers and Vakils."

This demand for the removal of distinctions between the Barristers and Vakils and the creation of an all-India Bar was undoubtedly at its inception a protest by the members of the Vakil Bar against what they conceived to be an inferior status assigned to them as a class. Their grievances then were against the Barristers only.

(*b*) THE INDIAN BAR COMMITTEE OF 1923—ITS RECOMMENDATIONS.

43. In response to the pressure of the indigenous legal profession the Government of India eventually in November 1923 set up the Indian Bar Committee, popularly known as the Chamier Committee, under the chairmanship of Sir Edward Chamier, a retired Chief Justice of the Patna High Court and the then Legal Adviser and Solicitor to the Secretary of State. The Committee was asked to examine and report on:—

(1) The proposals made from time to time for constituting an Indian Bar, whether on an all-India or Provincial basis, with particular reference to the constitution, statutory recognition, functions and authority of a Bar Council, or Bar Councils, and their position *vis-a-vis* High Courts;

(2) The extent to which it might be possible to remove the existing distinctions enforced by statute or practice between Barristers and Vakils.

44. The Chamier Committee submitted its report on the 1st February, 1924. It did not consider it practicable to organise the Bar on an all-India basis or to constitute an all-India Bar Council. It dealt only with the Advocates and Vakils practising in the High Court. It did not deal with the Pleaders and Mukhtars except by stating that the enrolment of and control over them should be left to the High Court under the Bombay Pleaders Act, 1920, in Bombay, and under the Legal Practitioners Act, 1879, in other places. It noticed with satisfaction the process of gradual disappearance of the practitioners with low qualifications whose practice was confined to the Subordinate Courts and expressed the hope that a time would come when there would be in each Province a single grade of practitioners entitled to appear in all Courts from the High Court to the lowest Revenue Court. It felt that any attempt to legislate for these subordinate grades of practitioners on any but provincial lines was doomed to failure. It contented itself with expressing the opinion that the disappearance of these grades was an ideal which should be kept prominently in view by whatever authority might be vested with the control of Bar in each Province.

45. The principal recommendations of the Chamier Committee may be summarised under the following heads:—

(*i*) that in all High Courts a single grade of practitioners, to be called Advocates, should be enrolled, the grade of High Court Vakils or Pleaders being abolished (Para. 19);

(*ii*) that where special conditions would be maintained for admission to plead on the Original Side, the only distinction within the grade of Advocates would be as between Advocates entitled to appear on the Original Side and Advocates not so entitled (Para. 18);

(*iii*) that English Barristers should be enrolled as Advocates on terms equivalent to those on which Indians would be enrolled (Para. 67);

(*iv*) that save when Advocates appear on the Original Sides of Calcutta, Bombay and Madras High Courts, on the instruction of an Attorney, all practitioners, when they act, should be required to file Vakalatnamas, but when they merely appear and plead they may file a memo. of appearance (Paras. 18, 21 and 23);

(*v*) that the existing distinctions in precedence and preaudience should be abolished and that both on the Appellate Side and on the Original Side the Advocates who were Barristers should take precedence *inter se* accoroding to the dates of call to the Bar, Advocates who were not Barristers according to the date on which they became entitled to practise in the High Court and the Barrister Advocate should take

precedence over another Advocate only if he was called to the Bar before the other became entitled to practise in a High Court (Paras 18 and 21),

(*vi*) that no appointment should be reserved for Barristers as such (Para 41),

(*vii*) that Vakils should be enrolled in the Original Sides of Bombay and Calcutta High Courts as follows:—

(*a*) Vakils of not less than 10 years' standing should be entitled to be admitted at once,

(*b*) Vakils of less than 10 years' standing but not of less than 5 years' standing should be admitted after they had read for one year with an approved Advocate practising on the Original Side,

(*c*) Vakils of less than 5 years' standing should be admitted on passing an examination in Commercial Law and practice on the Original Side (Paras 33 and 37),

(*viii*) that the Vakils so becoming entitled to practise on the Original Side should be subject to the same rules to which the Barrister Advocates were subject (Paras 33 and 37),

(*ix*) that Attorneys should also be entitled to be enrolled as Advocates but without passing a further examination (Para 34),

(*x*) that on the Original Side of the Madras High Court an Advocate should have the option of appearing and pleading on the instructions of an Attorney or of appearing pleading and acting like a Vakil but that he should not be entitled to do both (Para 39),

(*xi*) that the practice in the Madras High Court in Insolvency cases should be assimilated to the practice prevailing on the Original Side of that Court (Para 40),

(*xii*) that Bar Councils should be constituted for the time being for the High Courts of Calcutta, Madras, Bombay, Allahabad, Patna and Rangoon and that provision should be made for permitting the constitution of Bar Councils at Lahore, Nagpur and Lucknow later on (Paras 48 and 55),

(*xiii*) that the Bar Council should consist of 15 members of whom 4 should be nominated by the High Court and 11 elected members of whom 6 should be Advocates of at least 10 years' standing elected by the Advocates, the High Courts of Calcutta and Bombay being authorised to determine how many of the 11 elected Advocates should be Advocates entitled to practise on the Original Side (Paras 57 and 58),

(*xiv*) that a Bar Council should have power, on its own motion or on complaint or on a reference by the High Court, to inquire into all matters of the kind referred to in Sections 12 and 13 of the Legal Practitioners Act, 1879, breaches of rules and other improper conduct of an Advocate and make a report to the High Court, with a recommendation as to the action, if any, to be taken by the High Court (Para 60),

(*xv*) that the existing disciplinary jurisdiction of the High Court should remain but before taking any action the High Court should, except in a case of contempt of Court or the like, refer the case to the Bar Council for enquiry and report (Para. 61),

(*xvi*) that Attorneys should continue to be enrolled as such in the three Presidency Towns (Paras. 10 and 62);

(*xvii*) that a statutory power should be vested in the Incorporated Law Societies in Calcutta and Bombay if they ask for it just as the Incorporated Law Society of England had before the Solicitors Act, 1919 (Para. 62).

(c) INDIAN BAR COUNCILS ACT, 1926: SUMMARY OF ITS PROVISIONS AND THEIR EFFECT.

46 To give effect to that part of the recommendations of the Chamier Committee relating to the establishment of Bar Councils, the Central Legislature enacted the Indian Bar Councils Act, 1926 (XXXVIII of 1926) in spite of the protests of Sri T Rangachariar and Sir K C Neogy that the measure was insufficient and did not set up an autonomous All-India Bar The Act received the assent of the Governor-General on the 9th September 1926, and its main provisions came into force in different Provinces in 1928 and 1929 It extends to the whole of British India and applies to the High Courts of Calcutta, Madras, Bombay, Allahabad and Patna and to such other High Courts within the meaning of clause (24) of Section 3 of the General Clauses Act, 1897, as the Provincial Government may, by notification in the Official Gazette, declare to be High Courts, to which the Act applies.

47 Sections 3 to 7 of the Act deal with the constitution and incorporation of a Bar Council as a body corporate and the powers of making rules regarding the same and bye-laws regarding the appointment of ministerial officers and servants and their pay and allowances and constitution of committees and their procedure Section 8 as amended by Act XIII of 1927, directs the High Courts to prepare and maintain a roll of Advocates of the High Court, and prescribes the order of seniority as recommended by the Chamier Committee. The Attorneys of the High Court, however, are not to be entered in this roll Section 9 authorises the Bar Council, with the previous sanction of the High Court, to make rules to regulate the admission of persons to be Advocates of the High Court without limiting or in any way affecting the power of the High Court to refuse admission to any person at its discretion Sub-section (4) of this section preserves the power of the High Courts of Calcutta and Bombay to prescribe qualifications to be possessed by persons applying to practise on the Original Sides of those High Courts and their power to grant or refuse any such applications, or to prescribe the conditions under which such persons shall be entitled to practise or to plead Section 10 authorises the High Court to reprimand, suspend or remove from practice any Advocate of the High Court whom it finds guilty of professional or other misconduct. By sub-section (2) of this section the High Court is enjoined, upon any complaint being made to it by any Court or the Bar Council or by any other person against any Advocate for misconduct, to refer the case for enquiry to the Bar Council, or to the Court of a District Judge, unless it summarily rejects the complaint. The High Court is by the same sub-section empowered, of its own motion, to refer any case in which it has otherwise reason to believe that any such Advocate has been guilty of misconduct. Sections 11, 12 and 13 of the Act deal with the constitution of a Tribunal of the Bar Council to hold an enquiry, the procedure to be followed by the Tribunal or the District Court in the conduct of such enquiries and their powers. Section 14 empowers an Advocate as of right to practise, subject to the provisions of sub-section (4) of Section 9, in the High Court of which he is an Advocate and, save as otherwise provided by sub-section (2), or by, or under any other law, for the time being in force, any other Court in British India, and before any other Tribunal or person legally authorised to take evidence and before any other authority or person, before whom such Advocate is, by or under the law, for the time being in force, entitled to practise The right thus conferred on an Advocate of one High Court to practise in another High Court is, by sub-section (2), expressly made subject

to rules, made by the High Court or by a Bar Council under Section 15, regulating the conditions subject to which Advocates of other High Courts may be permitted to practise in that High Court. Sub-section (3) expressly preserves the power of the High Courts of Calcutta and Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its Original jurisdiction.

48. It will be noticed that the power of enrolment of Advocates continues to remain in the High Court and the function of the Bar Council is of an advisory character. This Act does not in any way affect the Original Sides of the Calcutta and Bombay High Courts. It will also be noticed that the Attorneys of Calcutta and Bombay are not in any way touched by this Act and the enrolment of and the disciplinary jurisdiction over the Attorneys, therefore, continue to remain vested in the High Courts under their respective Letters Patent. Finally, the right of the Advocates of one High Court to practise in another High Court was not unfettered but was expressly made subject to rules made by the High Court or the Bar Council. It is known that each of the High Courts as well as the Bar Councils of Calcutta and Bombay have made rules to the effect that Advocates of other High Courts would be permitted to appear and plead in the respective High Courts concerned only after obtaining the permission of the Chief Justice. This limitation was regarded as unsatisfactory, for on several occasions very eminent Advocates of one High Court had been refused permission to appear and plead in another High Court.

(*d*) Change in High Court Rules—Its Effects.

49. In 1928, a special Bench of the Madras High Court in *In the matter of an Advocate*, (1929) I.L.R. 52 Mad. 92 held that the Insolvency Rules 128 and 129 which permitted only Attorneys to act in the Insolvency Court had become void after the Indian Bar Councils Act had come into force. This decision, as it were, gave effect to the recommendation of the Chamier Committee that the practice in the Madras Insolvency Court should be approximated to the general practice of the Original Side of the Madras High Court. After this decision there remained no distinction amongst the Advocates of the Madras High Court.

50. To give effect to the recommendation of the Chamier Committee regarding the admission of non-Barrister Advocates on the Original Side the Calcutta High Court in 1932 amended Chapter I of the Original Side Rules so as to enable an Advocate or Attorney of that Court of not less than 10 years' standing, including, in the case of an Advocate, the period during which he was a Vakil, to be enrolled as an Advocate entitled to practise on the Original Side. The amended rule also permitted an Advocate of that Court of less than 10 years' standing to be enrolled on the Original Side on his passing an examination in certain specified subjects. Any law-graduate of Calcutta, Allahabad, Bombay, Dacca, Madras, Patna or the Punjab was also made eligible for enrolment on the Original Side on his passing an examination in each of several specified subjects, provided that he had read in the Chambers of an approved Advocate of the Original Side for a period of 12 months after passing the said examination. In 1940 the requirement of ten years' practice was reduced to three years and very recently the distinction between Barrister Advocates and other Advocates has been abolished so that at present all Advocates, no matter how qualified, may be enrolled on the Original Side and may plead there immediately they are enrolled as Advocates on the Appellate Side. No Advocate, whether Barrister or non-Barrister, can, however, act on the Original Side but must appear and plead on the instructions of the Attorney on record.

51. A similar process of liberalisation of the Original Side rules was followed by the Bombay High Court so that at present any Advocate of the Appellate Side may appear and plead on the Original Side on the instructions of the Attorney on the record.

52. The difference in the nomenclature has been abolished. The rules of precedence have been altered to the satisfaction of the Vakil Bar. Everybody, be he a Barrister Advocate or Vakil Advocate, who wants to act in any Court (other than the Original Side) has now to file Vakalatnamas. The Calcutta High Court has prescribed a common robe for all Advocates with liberty to the Barrister Advocates to wear the Barrister's gown and to the Vakil Advocates to wear the Vakils gown, all being entitled to wear the band. Any Advocate who is not a Barrister may now be enrolled on the Original Side of the Calcutta High Court on the very day he is enrolled as Advocate on the Appellate Side of that Court. Nobody need now pass a special examination to get admission into the Original Side of the Bombay High Court. The Insolvency Court of Madras has also been thrown open to all Advocates. The only restriction that now remains is that on the Original Side of Calcutta and Bombay High Courts every Advocate, no matter how qualified, Barrister or non-Barrister, must appear and plead on the instruction of attorneys who alone can act there. Thus what in 1939 Sri K. M. Munshi then a Minister in the Government of Bombay, described as "a hated monopoly or at least an anomaly foisted on them by an alien race" has completely disappeared. Indeed, there is now hardly any British Barrister either in the High Court of Calcutta or in the High Court of Bombay. Out of more than 600 Attorneys in Calcutta and about 450 Attorneys in Bombay, the number of English Solicitors can be counted on one's fingers.

(*e*) Continuation of the demand for an All-India Bar.

53. The Chamier Committee's Report and the Indian Bar Councils Act, however, had left the Pleaders, Mukhtars and Revenue Agents practising in the Mofussil Courts and Revenue Offices entirely out of consideration and did not bring about a unified Indian Bar. Further, the Bar Councils constituted under the Indian Bar Councils Act were merely advisory bodies and were neither autonomous nor had any substantial authority. This did not satisfy the legal profession and piecemeal attempts at amendment of the Legal Practitioners Act and/or the Indian Bar Councils Act were made from time to time without any success. Thus two non-official members of the Central Assembly moved Bills for this purpose in 1933 which eventually lapsed. In 1936 Sri Anugraha Narain Sinha moved a Bill to amend the Legal Practitioners Act with a view to provide that disciplinary action by the High Court against a legal practitioner would be taken only for professional or other misconduct as provided in the Indian Bar Councils Act and not for "any reasonable cause" as provided in the Legal Practitioners Act. This Bill lapsed. In 1939 a more comprehensive Bill was introduced by Sri Akhil Chandra Dutta in the Central Legislative Assembly to amend the Bar Councils Act with a view to bring about unification and autonomy of the legal profession. This Bill had three important purposes, namely, (*i*) the abolition of all distinctions between various classes and grades of legal practitioners and the placing of all categories of legal practitioners on one level, (*ii*) the democratisation of the Bar Councils by alloting a certain number of seats to mofussil lawyers to be filled by election by mofussil lawyers, and (*iii*) the taking away of the control exercised by the High Courts over the members of the legal profession and in particular the taking away of the powers of the High Courts of Calcutta and Bombay to prescribe the classes of Advocates entitled to appear before them in the exercise of their original jurisdiction. The Bill was circulated for eliciting public opinion but eventually lapsed. Shri T. T. Krishnamachari in 1944 moved a Bill to amend the two Acts so as to remove the liability of legal practitioners to disciplinary action by reason of their political activity. In view of the conditions prevailing during the war the Government was opposed to the Bill and the Bill does not appear to have been pressed. In 1946 six non-official Congress members again proposed to introduce a Bill to amend the two Acts substantially on the same lines as those of Shri Krishnamachari's earlier Bill. It appears that eventually the Bill was not pressed. In 1949 Shri Ananthasayanam Ayyangar moved a similar Bill but it was not eventually proceeded with.

54. In the meantime two new High Courts were established in Assam and Orissa. The Constitution of India came into force on 26th January, 1950, and the High Courts of Part 'B' States became High Courts within the meaning of the Constitution. The Judicial Commissioners' Courts in Part 'C' States also were given the status of High Courts by the Judicial Commissioners' Courts (Declaration as High Courts) Act (XV of 1950). As a result we have now 24 High Courts functioning in the Union of India, 9 in Part 'A' States, 7 in Part 'B' States, excluding Kashmir, and 8 in Part 'C' States. In February-March 1950 the Inter-University Board at its annual meeting held in Madras passed a resolution emphasising the desirability of having uniformly high standards for the law examinations in the different Universities of the country in view of the fact that under the new Constitution a Supreme Court for India had been established and stressing the need for an all-India Bar. In May 1950 the Madras Provincial Lawyers' Conference held under the presidency of Shri S. Varadachariar resolved that the Government of India should appoint a Committee for the purpose of evolving a scheme for an all-India Bar and amending the Indian Bar Councils Act to bring it into conformity with the new Constitution. The Bar Council of Madras at its meeting held on 1st October, 1950, adopted that resolution. Shri Syed Mohammed Ahmad Kazmi, M.P., who is a member of the present Committee, introduced in Parliament, on April 12, 1951, a comprehensive Bill to amend the Bar Councils Act.

55. In April, 1951, the Government of India introduced in Parliament a Bill which was passed and became known as the Supreme Court Advocates (Practice in High Courts) Act, 1951. A Bench of the Supreme Court of India by a majority decision has held, reversing the unanimous decision of a Full Bench of the Calcutta High Court, that Section 2 of that Act entitles an Advocate of the Supreme Court not only to appear and plead on the Original Sides of the Calcutta and Bombay High Courts as Advocates of those High Courts can do but also to act on the Original Sides which Advocates of those High Courts cannot do.

56. The demand for a unified all-India Bar, at its inception, came mainly, if not wholly, as a protest against the monopoly of the British Barristers on the Original Sides of Calcutta and Bombay and the invidious distinctions between the Barristers and non-Barristers. That monopoly has now completely disappeared and those irksome distinctions creating discriminations against the members of the indigenous Indian Bar have all been done away with. Nevertheless, the advent of independence has given a new orientation to the claim for an autonomous unified all-India Bar. It is no longer a protest for redressing grievances as before, but it is a claim for the fulfilment of a cherished ideal. The sense of unity fondly fostered amongst the members of the legal fraternity in India has received added stimulation by the political unity of India brought about by our newly won independence and the establishment of the Supreme Court of India. In this situation the Government of India took the view that in the changed circumstances a comprehensive Bill sponsored by the Government was necessary and to that end in August 1951 the then Minister of Law announced on the floor of the House that the Government of India were considering a proposal to set up a Committee of Inquiry to go into the problem in detail. That pledge has since been implemented by the appointment of the present Committee.

D. FINDINGS AND RECOMMENDATIONS OF THE PRESENT COMMITTEE.

(i) The desirability and feasibility of a completely unified Bar for the whole of India.

57. After considering all aspects of the matter the Chamier Committee in its report expressed the view that it was not practicable to establish an All-India Bar or an All-India Bar Council. In view of the different stages of development of the several chartered High Courts that Committee did not even

consider it safe to recommend the immediate establishment of Bar Councils for all the High Courts. Since then three new High Courts have been established in Part 'A' States, namely, in Nagpur, Assam and Orissa, and the highest Courts in 7 Part 'B' States have also been included within the description of High Courts and even the Judicial Commissioners' Courts in Part 'C' States have been given the status of High Courts. The state of development of these different High Courts is not quite the same and a certain amount of caution is called for. There can, however, be no doubt or question that the establishment of an autonomous and unified All-India Bar is an ideal which must be attained. A new Indian nation has taken its birth in the process of its historical unfolding. In the context of our newly won independence the urge for having a unified national Bar must necessarily have an irresistible attraction. Unless, therefore, there be any cogent and compelling reason against it, the establishment of a unified national Bar can, in the opinion of the Committee, be no longer put off and such consummation, the Committee thinks, may now be undertaken subject to proper and adequate safeguards.

58. The problem of a unified Bar is not a new one and it is not an Indian problem only. In one form or another this problem exists in other countries also. Thus in a small place like Great Britain and Ireland there are the English Bar, the Scottish Bar and the Irish Bar. It is not known whether the continuance of these separate Bars has in any way been felt to be detrimental to national solidarity. In Canada there is no unified Bar but each Province has its own Bar and a legal practitioner in one Province cannot practise in the Courts of another Province without obtaining admission to the Bar of that other Province. This usually involves the payment of a substantial fee and sometimes passing an examination. There is no separate Bar for the Supreme Court of Canada or other Federal Courts and a member of the Bar from any Province can practise before any Federal Court including the Supreme Court of Canada. Each Province has its own Law Society. There is, however, a federal association called the Canadian Bar Association which is a voluntary association representing over 50 per cent. of the Bars in the country. It is an influential body and its advice and assistance are constantly sought by the Government and other bodies. The position in Australia is more or less the same as in Canada. The United States of America has neither a unified Bar nor an integrated Bar. Each State sets up legislatively or by Court rules the qualifications for admission to the Bar and administers them through its own Bar examiners. A practitioner in one State cannot practise in the Courts of another State without permission. In all these countries the Bar being separate in different Provinces or States there are separate Law Societies composed of members of the profession who elect a governing body. These governing bodies prescribe the standard of admission to the Bar and exercise disciplinary jurisdiction over the members, in the case of some of the States, subject to the control of the Court. There is no statutory central body representing or controlling all the members of the different States. There is, however, an association called the American Bar Association but that is entirely a voluntary association comprising about one out of three practising lawyers. One half of the State Bars is affiliated to this association and the other half is not. The policy of this association is that all State Bar Associations should be integrated and the present tendency in America is in favour of the integration of the entire profession. It will thus be seen that although in Canada, Australia and the United States of America there is presently no unified Bar or a completely unified Bar Association integrating all the provincial or State Bars, the present tendency in some of those countries is towards such unification. The demand for an All-India Bar has been a persistent one and the establishment of a completely unified Bar for the whole of India will be the natural fulfilment of the desires and ambitions of a very large majority, if not the whole, of the members of the legal profession throughout this country. The fact that there exists a hierarchy of different grades of legal practitioners with varying

qualifications practising in different Courts need not prevent or delay the establishment of a unified national Bar, for it will be possible to absorb most of those legal practitioners into the category of Advocates as hereinafter mentioned. The ardent enthusiasm of the legal profession unmistakably reflected in the resolutions passed from time to time by the Lawyers' Conferences of different States clearly indicates, in the view of the Committee, that the psychological moment has definitely arrived for India, subject to the conditions hereinafter mentioned as to the creation of Bar Councils or otherwise, to take a big step forward and bring into being a unified national Bar. The Committee considers that in the new set up in India, it is desirable and expedient as well as possible to bring about that consummation. There is no reason why India should not take the lead in this matter.

(a) *Conditions of unification—Minimum Qualification.*

59. The establishment of a unified All-India Bar necessarily requires the prescription of a minimum qualification to be possessed by Advocates. The qualifications at the present moment required by the different High Courts are not uniform. The respective qualifications required by the different Courts are set out in the tabular statement annexed hereto and marked "D". It will appear from that statement that all the High Courts now insist on a law degree of a University and prescribe some additional qualifications, *e.g.*, practising in the District Courts for a certain number of years or reading in Chambers of a practising Advocate for a certain period. Some gentlemen in answer to the questionnaire have even expressed the view that the period of practice in the District Courts required for admission into the High Court should be increased. Some other gentlemen have given the opinion that the reading in Chambers or what is called "supervised attendance" in courts has in most cases become an entirely formal affair and in some cases an absolute farce, because it is difficult to find senior Advocates who have the time or the inclination to take interest in the pupils. As regards the law degree it appears that the different Universities prescribe different periods of study and different syllabi, particulars whereof are set out in the statement hereto annexed and marked "E". It will appear from the statement that all the Universities, except those of Calcutta and the Punjab, have a two years' course and two examinations on the passing of which a candidate secures a law degree. The Delhi University also provides an additional year's course to qualify the student to practise in the District Courts subordinate to the Punjab High Court. In Calcutta and the Punjab the Universities prescribe a three years' course. It will also appear from the statement that all the Universities, except those of Bombay and Andhra, insist that a candidate for admission into the Law College must be a graduate in Arts, Science or Commerce. In Bombay and Andhra a student can start legal studies immediately after passing the Intermediate examination. For such a student a law course extending over a period of three years is prescribed, namely, a law preliminary course for one year in general subjects and then regular instruction for two years in legal subjects. Thus in Bombay and Andhra a candidate can become a Law Graduate in five years' time after passing the Matriculation, whereas in Calcutta and the Punjab a candidate can become a Law Graduate in seven years after the Matriculation and in the remaining Universities in six years after the Matriculation examination. In Madras a graduate in Arts, Science or Commerce can enter the Law College and after graduating in law by passing two law examinations in two years he has to undertake for another year what is called an "apprentice course" for study of practice and procedure and to pass a further examination held by the Bar Council. There the Bar Council arranges for lectures on certain subjects mainly procedural and each candidate has to attend a certain percentage of the lectures so arranged. During this period of apprentice course the candidate is also to have supervised reading in Chambers of either in Advocate practising in the High Court or an Advocate practising in the District Courts.

60. After considering all the aspects of the question the Committee has come to the conclusion that the uniform minimum qualification for admission to the roll of Advocates should be a law degree obtained after at least a two years' study of law in the University after having first graduated in Arts, Science or Commerce and a further apprentice course of study for one year in practical subjects, *e.g.*, Law of Procedure including Rules of the High Court and of the Supreme Court, Court-fees Act, Stamp Act, Registration Act, Insolvency and Limitation Acts and the like after attending a certain percentage of lectures arranged for imparting instruction during this apprentice course. The State Bar Councils should hold an examination in these subjects. If any State Bar Council is not in a position immediately to arrange for lectures for the apprentice course and for holding the examination, it may make the necessary arrangements with the University of the State for that purpose.

61. Many Indian students are now studying law in Great Britain and many more may go there to qualify for the Bar before the recommendations of this Committee and the decision of the Government of India may become known to the public. Some provision for safeguarding their interests has to be made. The Committee, therefore, suggests that until five years after a specified date a Barrister of England or Northern Ireland and a member of the Faculty of Advocates in Scotland may be admitted as an Advocate according to the rules now prevailing. On the expiry of five years after the specified date, the call to the Bar should, in the case of an Indian, be taken only as the equivalent of a law degree, provided the Committee of Legal Education of the All-India Bar Council to be constituted as hereinafter mentioned is satisfied as to the sufficiency of the syllabus of the Inns of Court Law School; such Indian Barrister will, however, have to pass the apprentice course examination hereinbefore mentioned, after attending the requisite percentage of lectures. After that period of five years an English Barrister will be enrolled only on a reciprocal basis between India and Great Britain and Northern Ireland.

(b) *Common Roll.*

62. The creation of a unified All-India Bar postulates the setting up and maintenance of a common roll of Advocates for all India. Some persons have stated in their memoranda that it is not feasible or practicable to maintain such a common roll, while others have expressed a different view. At present rolls of Advocates are maintained by the Bar Councils where they exist or by the High Courts. The Supreme Court maintains its own roll of Advocates, divided into two categories, Senior and other Advocates. Registers are also kept of Pleaders, Mukhtars and Revenue Agents. It may be a laborious task but it should not be impossible to compile one comprehensive common roll of Advocates out of the Rolls or Registers maintained at State level on the lines hereinafter suggested. The Committee thinks that for attaining the cherished goal of an All-India Bar the trouble and expense will be well worth undertaking and that the time is quite opportune for making a beginning by laying the foundations of such an All-India Bar. With that end in view the Committee recommends that each State Bar Council should prepare and maintain a Register setting out the names of all existing Advocates, who are entitled to practise in the relative High Court. All Vakils and Pleaders entitled to practise in the District and other Subordinate Courts of such State who are Law Graduates should be entitled to be included in the Register of Advocates maintained by the State Bar Council on payment of such fees as are hereinafter recommended. All Vakils and Pleaders who are not Law Graduates but who under the existing rules are entitled to be enrolled as Advocates of the High Court would also be so entitled to be placed on that Register on payment of such fees as are hereinafter mentioned. The Vakils and Pleaders thus made eligible to be put upon the Register of Advocates must exercise their option in this behalf within such time as may be prescribed. All other Vakils, Pleaders and other legal

practitioners, *e.g.*, Mukhtars and Revenue Agents should be allowed to continue to practise in the same manner and subject to the same conditions as heretofore until, by retirement or otherwise, they cease to exist. The State Bar Council will send to the All-India Bar Council to be constituted as hereinafter mentioned a copy of the Register containing the names of the existing Advocates and the names of the Vakils and Pleaders of the classes mentioned above who elect to be enrolled as Advocates within the specified time together with the respective dates of their enrolment in that Register. The All-India Bar Council will also get copies of the Registers maintained by the Supreme Court of India in which are entered the names and dates of enrolment of Senior Advocates, Advocates and Agents. The All-India Bar Council will out of the copies of the Registers so obtained by it from the State Bar Councils and the Supreme Court compile a common roll of Advocates in the order of seniority according to the date of original enrolment of the existing Advocates in their respective High Courts or in the Supreme Court if they are not enrolled in any High Court, and the date of entry in the Register of the Vakils and Pleaders who will hereafter be entered on the Register within a specified time.

63. As regards the new entrants the Committee suggests that a candidate having the minimum qualification referred to above or as may be laid down by the Central Bar Council may apply for enrolment as Advocate to any State Bar Council, but preferably to the Bar Council situate in the State where the candidate ordinarily resides, in the form prescribed by such State Bar Council for the purpose, together with such certificates as may be prescribed and the State Bar Council, on being satisfied that the candidate possesses the requisite minimum qualification and has otherwise complied with the requirements prescribed by rules, shall enter the name of the candidate in the Register of Advocates kept by the State Bar Council together with the date of such entry and send the name of the candidate and the date of entry thereof in the State Bar Council Register to the All-India Bar Council and the latter shall thereupon enter the name of the Advocate in the common roll of Advocates kept and maintained by the All-India Bar Council. If in the opinion of the State Bar Council, a candidate does not possess the prescribed qualification or is not otherwise fit for enrolment it shall transmit the papers together with its recommendation to the All-India Bar Council and the latter shall, after taking into consideration the merits of the case, direct the State Bar Council either to admit the candidate or to refuse admission, as it thinks fit. If the All-India Bar Council directs the State Bar Council to admit the candidate the State Bar Council shall enter his name in the Register kept by it and communicate the fact of its having done so to the All-India Bar Council which will thereupon enter the name of the candidate in the common roll of Advocates. The Advocates shall have seniority according to the number assigned to them in the common roll. In case of doubt or dispute as to such seniority the matter shall be decided by the All-India Bar Council. In future persons having the requisite minimum qualifications should alone be enrolled as Advocates and, after a date to be specified, there shall be no recruitment of non-graduate Pleaders or Mukhtars or Revenue Agents.

(c) *Rights of Advocates on the Common Roll.*

64. The question arises as to what will be the rights of the Advocate on his enrolment; will he be entitled to practise only in the High Court and the Subordinate Courts in the State to the Bar Council whereof he had applied for enrolment or will he be entitled to practise in any Court in any State? As the law stands at present under Section 4 of the Legal Practitioners Act, 1879, an Advocate or Attorney of any High Court of a State is entitled to practise not only in all Subordinate Courts in that State but also in all Subordinate Courts of all States. The Advocates of one High Court may also practise in any other High Court, subject, of course, to the rules of those other High Courts. There can be no going back on this privilege. On the contrary, the essence of an All-India Bar is the capacity or right of its members to practise in all Courts in the country

from the highest to the lowest. The Committee considers that an Advocate on the Common Roll of Advocates to be maintained by the All-India Bar Council should be entitled to practise in all High Courts and in all Courts subordinate to each of the High Courts. The question arises whether any exception should be made in the case of the Supreme Court of India. In the opinion of the majority of the Committee the insistence on a certain number of years' practice in a High Court to make an Advocate eligible for enrolment in the Supreme Court has not shown any satisfactory result, for in some cases so many years' practice may mean so many years' idleness after enrolment in a High Court. Experience has shown that mere efflux of time by itself does not necessarily give maturity to the mind of the Advocate. The best and the simplest thing is to let an Advocate have the freedom of the Courts including the Supreme Court of India and this will enable him to find his own level for himself. There are, it is true, separate Bars in the U.S.A. for the Supreme Court and for each of the District Federal Courts and the Federal Circuits of Appeal but it does not appear, from the materials before the Committee, that any further qualification besides enrolment in the highest State Court is required. If not, then the enrolment in the Supreme Court and the other Courts mentioned above is only a formality. In Canada, on the other hand, there is a Supreme Court but there is no Supreme Court Bar and any member of the Provincial Bar may practise before the Supreme Court. In England there is no impediment in the way of the rawest of the Barristers appearing in any court in England right up to the House of Lords. The idea, therefore, of an Indian Advocate being made entitled to practise in all Courts in the land is not a novel one and the Committee sees no compelling reason why a practice similar to that which prevails in England and Canada should not be adopted here.

65. The Committee, however, desires to make it clear that the right to practise in all Courts does not mean that the rules of the Courts where the Advocates go to practise may be ignored. What is meant is that there should be no rule of any Court preventing any Advocate ordinarily practising in any other Court from exercising his profession in the first mentioned Court in the manner in which an Advocate ordinarily practising in that Court may do. To take concrete examples, if the dual system is continued in the Supreme Court or in the Original Sides in Bombay or Calcutta, an Advocate who wants to practise in any of those Courts must in common with other Advocates of those Courts be instructed by an Agent or Attorney as may be required by the rules of those Courts. Subject to such rules and the rules regulating the mode and manner of practice, each Advocate in the Common Roll of Advocates should have the right to practice in all Courts in India, from the Supreme Court down to the lowest Court or Revenue Offices.

(d) *Division of Advocates into two categories—Senior Advocate and Advocate.*

66. It will be convenient at this stage to refer to the division of Advocates into two categories, namely, senior Advocates and Advocates that now exists only in the Supreme Court. Some witnesses who have submitted memoranda or given oral evidence before the Committee have suggested that this division should be made also in the High Courts and even in the District or other Subordinate Courts. Subject to the provisions of 0.4, r.9 of the Supreme Court Rules a High Court Advocate of 10 years' standing may, at his option, automatically become enrolled as a senior Advocate. Experience has shown that a mere standing of 10 years is not by itself a correct test of the merit which a senior Advocate is expected to possess. In the High Courts there is no statutory division of Advocates into two categories but the profession instinctively knows which of the Advocates is really a senior or leader and acknowledges him as such. By the sheer force of the opinion of the profession in some places the really senior or leading Advocates who have attained that status often voluntarily impose upon themselves some of the obligations which the rules of the Supreme

Court now impose upon those who are enrolled as senior Advocates, namely, that they do not appear without a junior, do not do any drafting work or give any advice on evidence. This division of the Supreme Court Advocates based only on a specified number of years' standing at the Bar has only resulted in the conferment of a title which is frequently reproduced ostentatiously on name-plates and letterheads enabling some of the senior Advocates to demand a higher fee in the mofussil Courts. The spectacle of a senior Advocate being under the aforesaid disabilities when he is in the Supreme Court but throwing them off as soon as he gets out of the precincts of that Court and competing with Pleaders in drafting and other junior work in the mofussil Courts cannot be ennobling. The Committee considers that such a statutory division founded merely on a number of years' practice and not on real merits is neither necessary nor desirable and the Committee recommends that such artificial division and distinction in nomenclature should be abolished even in the Supreme Court. Some of the members of the Committee, however, consider that it will be desirable to confer recognition on really experienced and able Advocates by introducing a system on the lines of the King's Counsel system that prevails in England. They hold the view that after the conterment of recognition as a leader the Advocate concerned should be obliged to abide by the rules of conduct prescribed for such leaders in whatever Court they may choose to appear from the Supreme Court down to the lowest Court in the mofussil and a strict adherence to those rules of conduct will eliminate the sorry spectacle of a recognized leader doing junior work outside the Supreme Court. In other words the recognised leader should carry with him his distinction together with its concomitant disabilities imposed by the rules. A mere possibility of misuse of the superior status should not, according to them, prevent the taking of a forward step. Misuse or abuse should be checked by strictly enforcing the rules of conduct. Further, while the conferment of distinction will give right of pre-audience and will bring higher fees it will also entail some disadvantages in that certain kinds of work will have to be eschewed by him. This risk of diminution of income will prevent undeserving Advocates from seeking such distinction. For the really deserving Advocates such a recognition will be something to look forward to. They are further of the opinion that such a system, if introduced, will also be in the interests of the junior members of the Bar by bringing about a division of work which will necessarily enure for efficiency. According to them such a system will not in any way militate against the unification of the Bar. The other members of the Committee, however, hold that the introduction of such a system will necessitate the naming of an authority to decide whether such distinction should be conferred on any particular Advocate. If the decision is left to the executive Government then political bias or party affiliation may vitiate the decision. If it is left to the Hon'ble Judges it may lead to canvassing for recognition and may even encourage Advocates to strive to become the Judges' favourites and this, according to them, will be calculated to impair the independence of the Bar. As the Committee is not unanimous on this question, it only considers it right to record the divergent views and refrain from making any recommendation in that behalf.

(*ii*) The continuance or abolition of the Dual System of Counsel and Solicitor.

67. The second term of reference to the Committee relates only to the question of the continuance or abolition of the dual system of Counsel and Solicitor (or Agent) which obtains in the Supreme Court and in the High Courts at Bombay and Calcutta. The observations hereinafter made in this Report regarding that System are, therefore, entirely and exclusively intended to be confined to that System as it prevails in those specified places and not to have any larger or general implication.

(a) *Dual System—Its introduction into India.*

68. Dual system means a system of dual agency. It implies the distribution of work between two agents. In short, it is a system of division of labour.

it is a special feature of the British legal system. It has been stated in the earlier part of this Report that the English law and rules of equity were introduced into this country at a very early stage of the establishment of factories and settlements by the East India Company and its successor Company at different places in India. The establishment of the Mayor's Court in 1726 quite clearly introduced not only the substantive English law and rules of equity but also the English law and forms of procedure. There is not very clear and authentic material before the Committee to show whether actually the dual system of counsel and Solicitor was introduced in the Mayor's Courts. The Charter establishing the Supreme Court at Fort William in Bengal in 1774 quite definitely brought in English Barristers and Solicitors in Calcutta. Possibly they carried with them the English Dual System and introduced it into India in 1774. At any rate, the system was firmly established on the Original Sides of the High Courts in the three Presidency Towns. It was practically given up in Madras in 1886 when Vakils were permitted to both act and plead on the Original Side of the Madras High Court. Although non-Barristers were gradually permitted to be enrolled as Advocates of the Original Sides of the Calcutta and Bombay High Courts, the dual system has been maintained. It has been in operation in Calcutta possibly for at least 178 years since 1774 and certainly for about 100 years in Calcutta and Bombay.

69. The opinion of lawyers in India on the question of the merit or demerit of the dual system is as sharply divided today as it was in 1924 when the Chamier Committee made its report. Most of the Judges and Advocates who have had personal experience of the working of the dual system on the Original Sides of Calcutta and Bombay High Courts speak highly of the system. On the other hand, there are others opposed to the system who point out what they conceive to be its defects. The two rival views are clearly reflected in the two separate notes appended to the Report of the Chamier Committee, one by Mr. Justice Coutts Trotter concurred in by the late Sri S. R. Das the then Advocate-General of Bengal and the late Sri M. M. Chhatterjee the then President of the Incorporated Law Society of Calcutta and the other by Sri T. Rangachariar. The opponents of the system start by saying that it is a system which does not prevail anywhere in the world except in Great Britain and was imported into India in the interests of British Barristers and Solicitors and there is no justification whatever to continue it any longer. As a statement of fact it is not quite correct to say that the dual system is unknown except in Great Britain. There is a division of legal practitioners in France into two categories—'*avocat* and *avoue*', which brings about a dual system of a sort. The *avocat* appears and pleads in Court like the Barrister in England. The *avoue'* advises the client, prepares the case but does not appear in superior Courts and is the French counterpart of the English Solicitor. Article 75 of the *Code de Procedure Civile* peremptorily requires the engagement of an *avoue* unless the party appears in person and such *avoue* cannot be discharged except with permission. In New South Wales and Queensland in Australia there is dual system as there is in England. In Victoria although every one is admitted as a Barrister and Solicitor, in practice there is a self-imposed dividing line, for the members of the Committee of the Bar undertake to practise in Victoria only as Barristers and not to appear with any other legal practitioner who is not a member of that Committee. There are two classes of lawyers in Italy also. In an article under the caption "The Legal Profession in Italy" published in (1949-50) 63 *Harvard Law Review* P.1000, Angelo Piero Sareni, Professor of Law, University of Ferrara, Italy, and Lecturer on Comparative Law, New York University School of Law, says:—

> "Two Classes of Lawyers.—As in most civil law countries, lawyers in Italy are divided into two classes: "avvocati" and "procuratori". This distinction is important chiefly in civil litigation. The *procuratore* subscribes all pleadings and other papers submitted to the court, is present at the taking of depositions, and must sign the briefs; with

few exceptions all papers during litigation are served on him rather than on his client. The *avvocato* in general performs broader and more responsible functions: he advises the client, drafts all papers and briefs (though they need not be signed by him), and argues the case. The distinction is also of some importance in non-litigation matters, most of which are handled by *avvocati*, although a procuratore may perform some of the more ministerial functions, such as records, execution of documents, etc."

The distinction there, however, is not as rigid as it is in Great Britain or even as it is France, for, in practice, the distinction in Italy tends to disappear since a single individual may be both an *avvocato* and a *procuratora* by qualifying for both positions and moreover practice as *procuratore* for a certain number of years entitles one automatically to become an *avvocato*. In practice there is, as conceded by many witnesses, a dual system in operation on the Appellate Sides of High Courts and even in the District Courts in India, for the senior Advocates or Pleaders do not and in fact cannot find time to act but only plead in Court on the instructions of junior Advocates or Pleaders. Even in the United States of America where the dual system does not exist there is a feeling that the congestion of work in Court and the slipshod way in which the work is done is due to the absence of the dual system.

70. It is, therefore, clear that there is not only nothing wrong in this division of labour amongst the legal practitioners but that this division results in efficient preparation and presentation of the case. The compulsory dual system that now prevails on the Original Sides of Calcutta and Bombay High Courts is unquestionably a foreign sapling transplanted from Great Britain to India but it has clearly struck its roots in Calcutta and Bombay. If there is any merit in the system it should be fostered and preserved. If there are defects they should be remedied. If the defects are incurable and much outweigh its merits then certainly the system should be abandoned and abolished. A unified Bar does not exist in Australia, Canada or the United States of America and if that fact alone does not deter the legal profession in India from seeking a unified Bar, surely the argument that the dual system which has been in existence in India certainly for about 100 years if not for 178 years should be abolished merely because it does not exist anywhere except in Great Britain can have no merit either in logic or in commonsense. In the opinion of the Committee it will not be prudent or desirable to uproot the system merely because of its foreign origin or merely because it is not prevalent elsewhere and irrespective of its inherent merits if any.

(b) *Dual System as it works in Calcutta and Bombay.*

71. In order to judge of the merits and demerits of the dual system it is necessary to have an idea of its actual working. The conduct of legal business in Court requires a variety of work before and after the proceedings start. The case has to be filed in Court, preparations are to be made for its prosecution and the case has then to be presented before the Judge. The sum total of this variegated work is, according to this system, divided between the Solicitor who is generally called Attorney in this country and the counsel who is now in the rules of Court designated as Advocate. Broadly speaking the Attorney undertakes the preliminary preparation of the case and the Advocate the final presentation of it to the Court. The Attorney is said to act while the Advocate pleads.

72. For the purpose of carrying on his work the Attorney has to have an office with proper and adequate staff and mechanical contrivances in the shape of typewriters, press copying machines and sometimes duplicators. The formation of partnerships is a common feature in Calcutta and Bombay as it is in London. The firm consists of several partners and also employs Attorneys as

assistants. A Bombay firm of Attorneys whose representative gave evidence before the Committee has 6 partners and 7 Attorney assistants and its monthly establishment expenses are well over Rs. 10,000/-. Besides the Cash Book and Ledger the Attorneys maintain letter press copy book and Day Book wherein the gist of the instructions received and works done from day-to-day are meticulously entered which serve as excellent aid to memory and may be useful if any controversy arises as in a will case. The Attorneys' offices are always open during office hours and the commercial community finds it convenient to contact and consult the Attorneys any time during their business hours. If a tender is to be urgently made or a foreign bill is to be noted or protested the businessman has only to give instructions and the work is done at once, for the Attorney or his partner or assistant is always in attendance in office. The records of old cases are indexed and preserved in racks and may be referred to, in case of need, on 24 hours notice. On the death of a partner the Attorney's firm is reconstituted and there is a continuation of the business by the surviving partners with or without new partners. In some cases firms have continued in a family for several generations.

73. As soon as a controversy arises over his rights or obligations the client takes the advice of his Attorney and correspondence starts which clarifies the respective contentions. In many cases the disputes are composed by the two Attorneys. If the matter goes further the Attorney prepares a statement of the case and gets the plaint drawn or settled by the Advocate. The Attorney may be obsessed by his clients case or may identify himself too much with the client but the Advocate can and in practice does take a detached view and in proper cases advices the Attorney and the client that there is nothing in his case and the case should not be filed. If the case is filed the Attorney then takes steps for the service of the summons issued by the Court. The defendant on being served with the summon instructs his Attorney to defend the suit. Here again the Advocate on being instructed to draw or settle the written statement will advise the Attorney and the client to settle the suit and save costs if there is no substantial defence to the claim. The Attorney on his own initiative or on the advice of the Advocate asks for and obtains particulars of the opponent's pleadings either amicably or by and under order of Court, applies to the Court for leave to administer interrogatories in a proper case, and get the cpponent to admit facts. These things which are frequently done by Attorneys narrow down the field of controversy and clearly bring out the real points in issue. The Attorney sorts out the relevant papers and files affidavits disclosing the relevant documents. Inspection is given or taken and relevant documents are copied and briefs are prepared for the use of the Court as well as of the Advocate which facilitates the hearing in Court and saves time. If any commission is necessary to examine any witness the Attorney takes steps well in advance of the actual hearing in Court. Proofs of witnesses are taken and briefed to the Advocate. Sub-pœna to witnesses to give evidence and if necessary sub-pœna or notice to produce documents are served in time so that cases may not have to be adjourned abruptly. The case is thus fully prepared and made ready for trial when hearing briefs are delivered to the Advocates. This is the usual procedure followed every day in the Attorney's office. The Advocate who is not bothered with the work of preparing the case finds ample time to get ready with his arguments after studying the facts and the law applicable to the case. Here again the Advocate is in a position to advise the Attorney and client as to whether the case should be fought or settled amicably.

74. That the dual system, involving as it does a division of labour, is bound to and does result in efficient prosecution and speedy trial of the case is conceded on all hands. A busy Advocate cannot possibly bestow the time and attention that are necessary for the efficient preparation of the case. The client has to follow him from Court to Court without his being able to attend to him except

out of Court hours. Frequent adjournments of the trial of cases on account of some important document not being available or some material witness not having been summoned are a common features as will appear from a cursory perusal of the order sheet in most of the cases in the District Courts. As pointed out in the majority report of the West Bengal Judicial Reforms Committee popularly called the Harries Committee, trials on the Original Side are undoubtedly speedier. Parties readily accept the decision of the Original Side as is shown by the low percentage of appeals from decisions on the Original Side. Trials on the Original Side are not held up by revision applications. The Banks and financial houses desire the Original Side as is amply shown by the fact that they are reluctant to advance money on mortgages unless the security comprises some property within the town of Calcutta so as to attract the jurisdiction of the Original Side. In none of the numerous memoranda has it been seriously disputed that the work is done much more efficiently under this system than under the single agency system that prevails in the mofussil Courts, and even on the Appellate Sides of the High Courts. Those of the witnesses who have actual experience of this dual system have in their respective memoranda or in their oral evidence before the Committee testified to its excellence and usefulness. The view of several *ex*-Judges who have had experience of work on both sides of the Court is in favour of this system. Shri S. Varadachariar and Shri Atul Gupta who are opposed to the continuance of this system frankly concede its claim to efficiency and thoroughness.

75. An argument in support of the abolition of the dual system is that such abolition will be to the advantage of the individual members of the profession and, in particular, will give a better chance to the junior members. Nowhere has this aspect of the matter been more forcefully stated than by James Bryce in the American Commonwealth, 1913, Vol. II, Chapter CIV under the head 'BAR'. The advantages of the single agency system are dealt with at p. 668 and finally summarised at p. 676 as follows:—

> "As far as the advantage of the individual members of the profession is concerned, the example of the United States seems to show that the balance of advantage is in favour of uniting barristers and attorneys in one body. The attorney would have a wider field, greater opportunities of distinguishing himself, and the legitimate satisfaction of seeing his cause through all its stages. The junior barrister would find it easier to get on, even as an advocate, and, if he discovered that advocacy was not his line, could subside into the perhaps not less profitable function of a solicitor. The senior barrister or leader might, however, suffer, for his attention would be more distracted by calls of different kinds."

It is this argument which was elaborated at length by Shri T. Rangachariar in his separate note appended to the Report of the Chamier Committee. Obviously this idea is generally involved in the evidence of Shri C. P. Ramaswami Aiyar given before the Committee when he said that he preferred the dual system of senior and junior Advocate but not the Attorney and Advocate system which divides the profession into two water-tight compartments. If such division is to be regarded as a defect, is there any remedy? Bryce gives the answer in the concluding paragraph of the chapter at p. 678 as follows:—

> "Looking at the question as a whole, I doubt whether a study of the American arrangements is calculated to commend them for imitation, or to induce England to allow her historic bar to be swallowed up and vanish in the more numerous branch of the profession. Those arrangements, however, suggest some useful minor changes in the present English rules. The passage from each branch to the other might be made easier;....."

76. When a person enters a profession or calling he does take a certain amount of risk, for he may eventually find that he has no aptitude for that profession or calling. If it be possible to give him a *locus poenitentiae* there is no question that it should be made available to him. Likewise, a Solicitor may find that he missed his vocation when he became a Solicitor and that he would have shone as a brilliant Advocate. Such cases do occur, but that situation only demands that the system should be amended and not ended. The remedy, as Bryce suggests, is that "the passage from each branch to the other might be made easier". That is exactly what the High Courts at Calcutta and Bombay have done. Under the Calcutta High Court rules an Attorney of three years' standing can, on his application, be enrolled as an Advocate without having to pass any further examination. In Bombay an Attorney can likewise become an Advocate of the High Court. A similar rule may easily be prescribed whereby an Advocate, after a requisite period of Articled Clerkship, may be admitted as an Attorney.

77. Another objection against the dual system is that it is compulsory and the client has to employ two sets of lawyers, whether he likes it or not. There is always an element of compulsion in all judicial procedure. A man is bound to pay Court-fees before he can institute his suit. Under the Madras Bar Council Rules an advocate of 15 years standing must appear with a junior, so that a litigant in Madras having a suit or an appeal involving Rs. 5,000/- or more must, if he desires to engage a senior advocate of 15 years' standing, engage two Advocates whether he likes it or not. Similarly in the Bombay and the Punjab High Courts the Bar Association Rules require that two counsel must be briefed in cases above a certain specified value. It is easy to give other instances of compulsion in judicial procedure. This kind of compulsion has to be enforced in the larger interests of the efficient administration of justice. If the dual system ensures for efficiency and is helpful to the Court, as it is conceded to be, then this amount of compulsion has to be endured.

78. Finally, it is said that this dual system increases the cost of litigation. There is a good deal of controversy as to whether the costs on the Original Side of the High Courts are really heavier than the costs actually incurred on the Appellate Side or in the District Courts. As it appears from the separate note of Mr. Justice Coutts Trotter, evidence was placed before the Chamier Committee showing that the costs on the Original Side were not in fact heavier than those on the Appellate Side or the District Courts. The costs charged by the Advocates on the Appellate Side or by the Advocates or Pleaders in the District or other Subordinate Courts have no reasonable relation whatever to the costs calculated on the basis of the Court-Fees Act. In Harries Committee's Report is given an instance where in a suit pending before a District Judge the costs allowed amounted to Rs. 3,900/- whereas it transpired in the case that the actual costs of the litigation of the plaintiffs were over Rs. 72,000/-. On the Original Side there is a system of taxation and it is known how much the client has to pay the Solicitor, whereas on the Appellate Side and in the Subordinate Courts there is no scale of fee fixed by the court which the client has to pay to the Advocate or Pleader. It cannot, therefore, be said with any amount of certainty that the costs of a litigant on the Original Side are in excess of the costs which a litigant in the District Court actually incurs. In any case, if the costs are heavy by reason of the dual system, then the remedy lies in minimising the costs and not in putting an end to the system itself. Indeed, the High Courts have made rules reducing the costs from time to time. Thus in Chapter XXXVI of the Original Side Rules of the Calcutta High Court special provision is made for taxation on a reduced scale in mortgage suits in which the total sum due for principal does not exceed Rs. 4,000/- and also in suits for partition of property not exceeding Rs. 20,000/- in value. The Bombay High Court Original Side Rules have gone further and have provided for quantified costs in various kinds of suits and proceedings instead of costs being calculated

on items of work done. Similar provision may be adopted by the Calcutta High Court as well. The costs may still further be minimised by adding to the list of chamber business so that the Attorneys may more frequently appear in Chambers without having to brief counsel.

79. Further in Bombay matters involving Rs. 25,000/- or less have been taken away from the Original Side of the High Court and are disposed of by the City Civil Court established there. Whether the establishment of the City Civil Court in Bombay has ensured for the benefit of the litigant public or has actually reduced the costs is a matter on which there is difference of opinion, but the point to be noted is that the cases that now remain in the Bombay High Court are of a very substantial value and the parties to these suits can well afford to pay for the efficient service they prefer to have. Shri Atul Chandra Gupta who was himself a member of the Harries Committee informed the present Committee while giving evidence before it that the commercial community who are mostly interested in the Original Side and in fact run the Original Side, as it were, are definitely in favour of the dual system except the Bengal National Chamber of Commerce.

80. To summarise, the dual system has possibly been in force in Calcutta for over 178 years. The Madras High Court altered its rules and practically abolished the dual system. But in Calcutta and Bombay it has certainly been in existence for about a century. The Hon'ble Judges of the Bombay High Court, in their memorandum sent to the Committee have observed:—

> "The dual system has been in existence on the Original Side of this High Court for nearly 100 years and has played a great part in the efficient administration of Justice. The High Court has from time to time emphasised the role played by the dual system in producing a high state of efficiency both in the preparation and presentation of cases and also in the training of a competent Bar. The usual criticism levelled against this system was its costliness. That criticism has lost much of its force by reason of the establishment of the City Civil Court which has jurisdiction up to Rs. 25,000/-. Their Lordships however feel that there may be instances even now where the costliness of the system may cause injustice and may prevent a litigant from bringing his just cause to this Court. In view of this Their Lordships feel that it would be perhaps desirable to make the system optional rather than compelling every litigant to come to this Court on its Original Side through the agency of a Solicitor and Counsel. In the opinion of Their Lordships it should be left to them to determine when the system should be changed from a compulsory one into an optional one. In the meanwhile Their Lordships will consider whether it would be possible further to cheapen litigation on the Original Side under the existing system."

The three defects pointed out by the critics are compulsion, costliness and non-interchangeability between the two branches of the profession. As already pointed out there is an element of compulsion in all legal systems. Costliness has been minimised and can still further be minimised. Rules have been framed permitting a Solicitor to become an Advocate.

81. On a review of the entire situation and the improvements made by the rules since the days of the Chamier Committee and in view of the fact that the persons mostly affected by the dual system want its continuance the present Committee does not think that any case has been made out for the abolition of the dual system in Calcutta or Bombay and it sees no reason why that system should not continue in those two places. The Committee is satisfied that the continuance of the dual system will not in any way militate against the ideal of an All-India Bar just as a division of the Advocates into two categories of senior and junior, which also imposes the obligation on the senior Advocates not to act, would not do. The dual system is nothing more than a division of labour which

of necessity enures for the better preparation of the case and enables the Advocate to effect a better and forceful presentation of the client's point of view before the Judge. If the views of the majority of the Committee in regard to the dual system be accepted, then it will be necessary for the Government of India to undertake legislation to exempt the Original Sides of Calcutta and Bombay from the operation of the Supreme Court Advocates (Practice in High Courts) Act, 1951, in so far as acting on those sides is concerned.

(e) *Dual System in the Supreme Court.*

82. In the Supreme Court there is a dual system of a sort, Agents taking the place of the Attorneys. That "both on grounds of economy and efficiency the present dual system in the Supreme Court should be abolished as it has not served even partially the purpose for which it was first introduced in the Federal Court and later continued in the Supreme Court" is the opinion of the Hon'ble Judges of the Supreme Court. The reason for this failure is obvious when one looks at the rules for admission of the Agents. Under Order IV, Rule 19 of the Supreme Court Rules, a person may be enrolled as an Agent if he is an Attorney or Solicitor in any High Court or if, subject to the next succeeding rule, he has been entitled to appear and plead in a High Court for a period of five years. There are at present 146 Agents enrolled in the Supreme Court. Of these only 66 are Attorneys and the remaining 80 are Advocates. The Attorney-Agents usually practise in Calcutta or Bombay and they have got themselves enrolled as Agents in the Supreme Court just to improve their status and in order to enable them, when an occasion arises, to instruct Advocates at the hearing of their clients' appeals. In fact only one out of 66 Attorney-Agents ordinarily resides in Delhi or actively practises in the Supreme Court. The remaining 80 Advocates-Agents have never had the rigorous training of Attorney which enures for the efficiency of the system as it works in Calcutta and Bombay. Indeed, most of them have no well-equipped or no office at all. Some of them have only an accommodation address. There is no wonder, therefore, that the dual system, as it operates in the Supreme Court, has not proved to be a success. The fact that a note was inserted in the forefront of Order IV that the rules contained in the Order were subject to revision at the end of a period of two years and that Their Lordships had under consideratioon a proposal to abolish the dual system was certainly not calculated to attract the competent Solicitors to leave their respective places of business in Calcutta and Bombay and come and settle down in Delhi and engage in active practice as Agents. The Committee considered whether the position could be improved by insisting on an Advocate desiring to become an Agent having proper training as Articled Clerk before being admitted as an Agent. It appears that apart from a very few Agents the rest of the Agents have no well-equipped office where Articled Clerks can have their training and it will not be right for the Committee to insist that candidates should go all the way to Calcutta or Bombay to have their training as Articled Clerks to Attorneys of those places. Further the Committee notes that the amount of acting involved in matters in the Supreme Court is very much less than what is done by the Attorneys on the Original Sides of the High Courts and is even less than the acting done by the Advocates on the Appellate Side. In the circumstances, the Committee, therefore, agrees with the Hon'ble Judges of the Supreme Court that the dual system as it exists in the Supreme Court should be abolished subject to the following recommendations being given effect to, namely:—

(1) All present Agents should cease to exist as Agents on and from a specified date as may be prescribed;

(2) All existing Agents who are Advocates of any High Court should be entered in the Common Roll of Advocates to be maintained by the All-India Bar Council counting their respective seniority from the date of their original enrolment as Advocates;

(3) All existing Agents as on 31st December, 1952, who are not Advocates of any High Court but are Solicitors of Calcutta and Bombay should be entitled, subject to the rules of those High Courts, to be put on the Registers of Advocates kept by the State Bar Councils of those places counting their seniority from the date of their enrolment as Agent of the Federal Court or of the Supreme Court;

(4) In every case in the Supreme Court there shall be an acting Advocate on record unless the party appears in person. Every Advocate pleading in the Supreme Court shall appear with the acting Advocate on record except where the Advocate appearing is himself the acting Advocate on record;

(5) An Advocate intending to act in the Supreme Court shall be permitted to do so subject to the rules that may be framed by the Supreme Court in this behalf and this Committee recommends the following conditions:—

(*a*) he must be ordinarily residing in the State of Delhi;

(*b*) he must have a well-equipped office in Delhi or New Delhi;

(*c*) he must give an undertaking to carry out the duties of an acting Advocate;

(*d*) he or in case he has a partner or partners one of such partners must give an undertaking to confine his practice to the Supreme Court and not to act and plead in any other Court;

(*e*) the acting Advocates of the Supreme Court should be permitted to enter into partnership with other acting Advocates of the Supreme Court and act in their firm names, provided that all the partners ordinarily reside in the Delhi State and their office is situated in Delhi or New Delhi and each of them gives the undertaking expressed in clause (*c*) and one of them gives the undertaking in clause (*d*).

83. The Committee considers that these undertakings are absolutely necessary in the larger interests of efficient administration of justice in the highest Tribunal in the land and are, therefore, reasonable restrictions to be imposed in the interests of the general public on the exercise of the right to practise the profession of an acting Advocate in that Tribunal.

(iii) Continuance or Abolition of Different Classes of Legal Practitioners.

84. The existence of a regular hierarchy of different grades of Courts in India and the dearth of Law Graduates in earlier time necessitated the creation of inferior grades of legal practitioners with varying degrees of qualifications with right to practise only in the District and other Subordinate Courts and the Revenue Offices. Apart from the Advocates and Vakils of the High Courts there came into existence pleaders (who were initially mostly non-graduates) Mukhtars (who were and are only Matriculates), and Revenue Agents. Income-tax Practitioners are really not legal practitioners and are not governed by the Legal Practitioners Act, 1879, and, the Committee, therefore, does not propose to deal with them but leaves them to be dealt with by the Income-tax authorities under the Indian Income-tax Act. Particulars of the different categories of legal practitioners in the different High Courts and their numerical strength are set out in the tabular statement hereto annexed and marked "F". Out of those legal practitioners the existing Vakils and Pleaders who are Law Graduates but who have not got themselves enrolled as Advocates will, as recommended above, be immediately absorbed in the category of Advocates and should be entered in the Register kept by each State Bar Council and thereafter also in the Common Roll to be maintained by the All-India Bar Council if they choose to exercise their

who are not Law Graduates but who are, under the existing rules, eligible to be enrolled as Advocates of High Court may be entered in the Register kept by the State Bar Council and in the Common Roll maintained by the All-India Bar Council if they elect to be so entered within the specified time. The rest of the existing Pleaders as well as the Mukhtars and Revenue Agents should be allowed to continue to practise in the manner and subject to the conditions which are at present applicable to them. They should remain under the disciplinary jurisdiction of such authorities as are now exercising such jurisdiction over them and the existing provisions of the Legal Practitioners Act, 1879, should be continued or incorporated in the comprehensive legislation which may be enacted.

85. As will appear from Annexure "F" the recruitment of Pleaders who are not Law Graduates has been discontinued in all States. The recruitment of Mukhtars has also been discontinued in all States, except West Bengal, Assam and Orissa. The Harries Committee, set up by the West Bengal Government, unanimously recommended the continuation of the recruitment of Mukhtars in West Bengal. The main ground for this recommendation is that in distant places in the interior where there are no competent laweyrs the Mukhtars render legal assistance to poor litigants on very cheap fees, for they are local men and incur no great expense either in their legal education or for equipment in the shape of Law books and Reports and have not to incur any travelling expense to get to the Court premises. The Mukhtars undoubtedly have served a very useful purpose in the past and some of them have shown considerable talent and gained the respect of the community but the evidence before the present Committee is that at the present moment there are many Pleaders who are Law Graduates who are practising in the Courts in which the Mukhtars ordinarily practise and in some cases they are content to charge even a lesser fee than what the Mukhtars do. All the States have discontinued further recruitment of non-graduate Pleaders and all States, other than West Bengal, Assam and Orissa have discontinued the recruitment of Mukhtars. It is now possible to get graduate Pleaders in considerable number who are prepared to practise in petty Courts situate in very remote parts of the country. In the larger interests of the unification of the Bar, therefore, the Committee recommends that in future there should be no further recruitment of non-graduate Pleaders or Mukhtars or Revenue Agents.

86. The representatives of some of the Mukhtars' Associations suggested that the anomaly of their Sanads permitting them to practise in all Subordinate Courts, Civil and Criminal, but the High Court Rules and Orders preventing them from acting and pleading in Civil Courts should be removed. Seeing that the aforesaid disability of the present Mukhtars has been brought about by the rules framed by the High Court, the Committee considers that the question of the removal thereof should be left to the High Court which will be in a better position to judge of the desirability and expediency of allowing the Mukhtars to practise in the Subordinate Civil Courts.

(iv) The desirability and feasibility of establishing a single Bar Council (a) for the whole of India, or (b) for each State.

(a) *General Observations.*

87. It will be recalled that the Indian Bar Councils Act, 1926, provided for the constitution of Bar Councils in respect of the then existing High Courts. Up to the date of the Constitution of India Bar Councils had been constituted for the High Courts of the Provinces which came to be included in and called Part "A" States except Assam. The Indian Bar Councils Act, 1926, was thereafter also extended to Part "B" States except Kashmir and it is understood that Bar Councils are in the process of being constituted in these States. No Bar Council has yet been constituted in any of the Part "C" States. The question for consideration is whether the State Bar Councils which are elected for the purposes of the Advocates of the respective State High Courts will be enough in

the new set up of an All-India Bar or there should be an All-India Bar Council in substitution for or in addition to the existing State Bar Councils.

88. The establishment of an All-India Bar Council, like the establishment of an All-India Bar, was not considered feasible by the Chamier Committee. Since then more than 25 years have passed and the Bar Councils attached to the major High Courts have had considerable practical experience in the management of their respective affairs. The Committee is satisfied on the evidence before it, that those Bar Councils have on the whole worked quite satisfactorily, except perhaps on a few occasions when the reports made by them had to be referred back by the High Court for further consideration. There can be no question of going back on the steps already taken and those Bar Councils must be taken to have come to stay. The question, therefore, further narrows down to whether there should be an All-India Bar Council in addition to the State Bar Councils.

89. It has been stated in an earlier part of this Report that in Australia, Canada, or the U.S.A. there is neither a unified Bar nor any statutory body in the nature of a federal Bar Council or Association. The Bars in those countries are organized in each Province or federating State and there is a Law Society for each Bar. There are, however, federal associations, *e.g.*, Canadian Bar Association or American Bar Association which, though influential, are purely voluntary bodies not comprising within their fold the entire legal profession of the land. There is, however, noticeable in those countries a tendency towards the creation of a federal body with authority over all the provincial or State Bars. Notwithstanding the fact that there are no integrated and unified Bars in those advanced countries the Committee, for reasons already stated, has recommended the establishment of an All-India Bar. The establishment of such a unified national Bar, the Committee feels, necessarily requires the creation of an All-India authority to manage its affairs. The creation of an All-India Bar Council will have a tremendous psychological effect which will undoubtedly stimulate a sense of unity and solidarity in the minds of the members of the legal profession throught the Union. An All-India Bar Council is the necessary concomitant of an All-India Bar. The sceptic will say that although it may be eminently desirable to have an All-India Bar Council it will be futile to set up such a body, for it will be an unwieldy body and will not work as no Advocate having a substantial practice will have the time or the inclination to leave his work and come all the way to the headquarters of the All-India Bar Council in New Delhi. The Committee does not take this pessimistic view. It is satisfied that in the new set up and in the interests of the legal profession itself there will be found many public-spirited Advocates who will cheerfully take upon themselves the duty of attending to the business of the All-India Bar Council even at a sacrifice. Further, it is possible, in the opinion of the Committee, to so distribute the functions and duties amongst the All-India Bar Council and the State Bar Councils that the work of the All-India Bar Council may not be unduly heavy and may not ordinarily necessitate the holding of meetings of that body at intervals more frequent than once a month. If even with work so distributed, public spirited Advocates be not forthcoming to devote time and energy to the work of the All-India Bar Council, then the legal profession in India will clearly not deserve what it has been demanding for all these years. As already stated, the Committee does not take such a pessimistic view. The Committee is satisfied that the establishment of an All-India Bar Council is desirable, necessary and is quite feasible.

90. The Bar Councils constituted under the Indian Bar Councils Act, 1926, are, as has been stated before, only advisory bodies and the power of admission, suspension and removal from the roll of Advocates is entirely vested in the respective High Courts. The proposal for the creation of an All-India Bar Council and the reorganization of Bar Councils for all States raises important

questions on which the witnesses before the Committee have expressed considerable differences of opinion. In view of the varying state of development of the Bar in the different provinces the Chamier Committee did not consider it expedient to recommend the establishment of an All-India Bar or an All-India Bar Council and was reluctant to confer the power of admission, suspension or removal on the Bar Councils which power has, therefore, been left vested in the High Courts. It is true that the Bar Councils have functioned for about 25 years in some places and gained some experience and maturity but it is equally true that the High Courts and the legal profession in Part B and Part C States have not attained the same state of development and progress as those of Part A States have done. In view of this difference and in view of the possibility of local prejudices and jealousies and communal passion and hatred influencing the members elected to the Bar Councils, some witnesses appearing before the Committee thought that the time had not yet come when those powers might be safely taken away from the High Courts and vested in the Bar Councils. On the other hand there is a considerable body of opinion that the Bar should be completely autonomous and independent and there should be no interference by the High Courts in the affairs of the Bar Councils or with the members of the Bar. There are weighty reasons in support of both views. In view of the diversity of race, religion and language of the people of this country the danger and risk envisaged by the supporters of the first view will always remain. On the other hand, as has been pointed out by some weighty opinion, only by the conferring of these powers will the Bar be able to rise to the level of its responsibility. On the whole the Committee feels that there can be no progress unless some risks are taken. A beginning has to be made at some time or another and the Committee thinks that the psychological moment has arrived for laying the foundation of an independent and autonomous national Bar. It is true that in some of the advanced countries, *e.g.*, the U.S.A. and Australia the ultimate disciplinary power is still vested in the superior Courts although it is frequently delegated to the Bar Associations but it is equally true that in some other countries, *e.g.*, England and Canada the Benchers who represent the profession exercised this power. The medical men have their General Medical Council under the Indian Medical Councils Act, 1933 (Act XXVII of 1933). So have the Chartered Accountants under the Chartered Accountants Act, 1949 (Act XXXVIII of 1949). It is a truism that responsibility thrown upon a person stimulates his sense of responsibility. Unless responsibility is conferred on the representative body elected by the members of the Bar the establishment of an All-India Bar will be meaningless. If it is desirable, as the Committee thinks it is, that the national Bar of India should be a strong and independent body capable of influencing and leading public opinion there should be some competent authority deriving its jurisdiction and power from the Bar itself and not subservient to any external authority howsoever high and eminent that might be. The risk of the Bar Councils being swayed by external influence or unworthy considerations is not, however, as unprovided for as is apprehended. It has to be remembered that the Bar Councils (All-India or State) will be statutory bodies exercising quasi-judicial functions and as such will be subject to the jurisdiction of the High Courts under Article 226. Apart from the remedy by way of writs in the nature of prerogative writs, there is the right of appeal to the Supreme Court under the very wide language of Article 136. As will appear hereafter, the Committee, by way of further safeguard, recommends an appeal from the decision of the State Bar Councils to the All-India Bar Council. In view of all these safeguards and in the larger interests of an autonomous national Bar the Committee is of the opinion that the power of enrolment, suspension and removal of the Advocates should be vested in the Bar Councils in the manner and to the extent hereinafter mentioned. It may be reiterated that those legal practitioners who will not be eligible to be enrolled as Advocates or who, being so eligible, will not get themselves enrolled as Advocates within the specified time shall continue to be under the disciplinary jurisdiction and power of such authority as is now vested with the same. If the dual system continues in Calcutta and Bombay, the

Attorneys as officers of the Court, should continue as heretofore to be amenable to the disciplinary jurisdiction of the High Courts of those places.

(b) *State Bar Councils.*

91. The question of the constitution of the Bar Councils has now to be considered. The Committee recommends:—

(1) There shall be a State Bar Council in each of the Part A and Part B States except that Vindhya Pradesh is to be attached to Madhya Pradesh for the purpose of the constitution of a common State Bar Council for both of them.

(2) For the purpose of constituting State Bar Councils the Part C States should be attached as follows: Delhi and Himachal Pradesh to the Punjab, Ajmer-Merwara to Rajasthan, Bhopal to Madhya Bharat, Cutch to Saurashtra, Manipur to Assam, Tripura to West Bengal and Coorg to Mysore.

(3) Each State Bar Council shall consist of:—

(*i*) Two Judges of the High Court who have been advocates to be nominated by the Chief Justice except in Assam, Orissa, Saurashtra, and Patiala and East Punjab States Union where only one Judge will be nominated by the Chief Justice;

(*ii*) the Advocate-General or, if there is no such office, the Government Advocate or Standing Counsel; and

(*iii*) 15 elected members in case of all States other than Assam, Orissa, Saurashtra and Patiala and East Punjab States Union, and in the case of the last 4 States 10 elected members.

(4) The distribution of seats should be prescribed so that the interests of Advocates ordinarily residing in the place where the High Court is situate and of Advocates ordinarily residing in the districts be kept in view and the districts should be grouped together for making single member constituencies.

(5) The functions of the State Bar Councils should be as follows:—

(*i*) to admit Advocates and after entering them on the Register to be maintained by the State Bar Council to send up the name and date of entry of such Advocate in the State Register to the All-India Bar Council for being entered in the common Roll of Advocates;

(*ii*) to maintain a Register of Advocates so admitted;

(*iii*) to refer to the All-India Bar Council applications for admission which in its opinion, should be refused together with the grounds in support of such opinion;

(*iv*) to entertain and determine all cases of professional misconduct against Advocates on its Regsiter and pass such orders of punishment as it may deem fit;

(*v*) to appoint necessary officers and staff,

(*vi*) to manage and invest the funds of the State Bar Council;

(*vii*) to provide and make arrangements for imparting legal education, holding examinations and training of Advocates under the directions of the All-India Bar Council;

(*viii*) to generally carry out the orders and directions of the All-India Bar Council; and

(*ix*) to make rules for election of its members with the approval of the All-India Bar Council.

(6) The State Bar Council shall elect out of its number as many Committees as may be necessary and, in particular, the following Standing Committees:—

(*i*) an Executive Committee of 5 members;

(*ii*) an Enrolment Committee of 3 members; and

(*iii*) a Disciplinary Committee of 5 members out of whom 3 may be nominated by the Chairman for each case.

(7) The State Bar Council shall elect its own Chairman.

(8) The State Bar Councils shall be elected for 6 years but of those elected at the first election one-third will retire after two years and another one-third after 4 years and the remaining one-third after six years, each one-third being selected by lot as soon as possible after the first election. The same constituency which returned the retiring members will elect the new members of the same kind in the place of the members retiring, the retiring members being eligible for re-election.

(c) *All-India Bar Council.*

92. As already indicated there shall be an All-India Bar Council. The Committee recommends:—

(1) The All-India Bar Council shall be composed of:—

(*a*) two Judges of the Supreme Court who have been Advocates, to be nominated by the Chief Justice of India,

(*b*) the Attorney-General of India and the Solicitor-General of India as *ex-officio* members, and

(*c*) delegates from the State Bar Councils who for the first two elections will be elected on the following basis:—

(*i*) Each State Bar Council will elect one from amongst their number;

(*ii*) Each State Bar Council having on a prescribed date more than 1,000 Advocates entered on its Register will elect one additional member who shall not be a member of that Bar Council provided that no Advocate shall be eligible for membership who has for not less than 10 years been entitled to practise in the High Court.

(*d*) Three members to be elected by the Supreme Court Bar Association out of their number who should ordinarily be resident in the State of Delhi and practising in the Supreme Court.

(2) The members of the All-India Bar Council except the Judges and the *ex-officio* members are to hold office for six years but out of the elected members at the first election one-third will retire after two years, one-third after 4 years and the remaining one-third after six years, the one-third to retire in such rotation being selected by lot as soon as possible after the first election. The same constituency to which the retired members belonged will elect new members of the same kind in their places, the retiring members being eligible for re-election.

(3) The functions of the All-India Bar Council will be as follows:—

(1) to maintain a Common Roll;

(2) to prescribe qualifications for admission of Advocates and the fees to be paid;

(3) to consider cases where the State Bar Council is of the opinion that the application for admission of any candidate should be refused;

(4) to prescribe rules of professional conduct and etiquette;

(5) to prescribe the procedure to be followed by the State Bar Council and on appeal by the All-India Bar Council for enquiries in cases of professional misconduct and the punishment thereof;

(6) to entertain and hear appeals from the decisions of the State Bar Council in disciplinary matters;

(7) to withdraw any disciplinary proceedings pending before any State Bar Council either of its own motion or on application by either party and to determine the same;

(8) to entertain and determine all cases of misconduct of Advocates in relation to the proceedings in the Supreme Court;

(9) to provide and make arrangements for imparting legal education, holding examinations and training of Advocates and for that purpose, if necessary, to enter into arrangements with the Universities and other bodies;

(10) to lay down from time to time standards of legal education, if necessary in consultation with the Universities;

(11) to exercise general supervision over the functions and working of the State Bar Councils;

(12) to deal with and dispose of any question referred to it by the State Bar Councils or the Courts;

(13) to appoint and maintain necessary officers and staff;

(14) to manage and invest the funds of the All-India Bar Council; and

(15) to make rules for the election of members of the All-India Bar Council and carrying out the above objects and generally to do all things incidental thereto.

(4) The All-India Bar Council shall elect out of its number as many Committees as may be necessary and, in particular, the following Standing Committees:—

(*a*) an Executive Committee of 9;

(*b*) a Disciplinary Committee of 5;

(*c*) a Legal Education Committee of 12 of whom 2 will be the two Judges and 5 persons to be elected and 5 other persons co-opted from the Universities by these 7 members.

Committees (*a*) and (*b*) to function for two years and Committee (*c*) for 6 years.

(d) *Finance.*

93. It is obvious that in order to carry on its duties the All-India Bar Council and the State Bar Councils shall require funds. At present the Advocates, at the time of their enrolment, pay a certain amount ranging from Rs. 25/- to Rs. 100/- which goes to the Bar Council besides Rs. 250/- to Rs. 1,125/- which goes to the State. Entrants to professions other than the legal profession are not required to pay any amount to the State as and by way of admission fee. Persons exercising any profession, calling or vocation including Advocates in several places have to pay a licence fee, but there is no reason why there should be a taxation by the State at the time of enrolment of Advocates only. The Committee suggests that an Advocate at the time of his admission shall pay a sum of Rs. 500/- to the State Bar Council to which he makes his application and nothing should be payable to the State. This amount may be paid in a lump sum or an Advocate may elect to pay annual amounts of Rs. 50/- with an option to pay Rs. 500/- at any time, amounts already paid not being deducted. Those Vakils and Pleaders who according to the recommendations of

the Committee become eligible to be enrolled as Advocates may pay Rs. 500/- in lump sum or an annual amount of Rs. 50/- with the option mentioned above. Each State Bar Council shall for the first five years contribute 40% of the enrolment fees received by it to the All-India Bar Council. At the end of the first 5 years the proportion of the contribution may be reconsidered.

(e) *Superior Officers of the Bar Councils—their qualifications and emoluments.*

94. The foregoing recommendations, if accepted, will undoubtedly cast very heavy and onerous duties on the All-India Bar Council and the different State Bar Councils. Apart from directing and supervising the legal education and controlling the proetssional conduct of the Advocates in the manner recommended above the Bar Councils will have to undertake the very responsible duty of handling a considerable amount of money that will come to their hands. In order to efficiently discharging those duties the Bar Councils must have, besides clerks and subordinate ministerial staff, some competent superior officers of proved ability, mature experience and unimpeachable integrity. Each Bar Council must, therefore, select and appoint for a term a Secretary who should be a person of the type just mentioned and who has had considerable administrative experience either as the Registrar or Deputy Registrar of a High Court or the Supreme Court or as a senior executive officer in a Government Department. Ordinarily he should also be an Advocate but for the first 5 years this need not be insisted upon. The emoluments and other terms of employment should be such as will be calculated to attract really suitable persons. Apart from the Secretary, each Bar Council must have a competent Accountant of long experience and undoubted probity with a sound knowledge of book-keeping. It is also essential that the accounts of each Bar Council should be thoroughly audited by a Chartered Accountant every year. The audited accounts of each State Bar Council should be submitted to the All-India Bar Council together with the auditor's report. The Committee recommends that the qualifications and the terms of employment of the Secretary and the Accountant should be fixed by statute and the annual audit of accounts should be made a statutory requirement.

(v) The Establishment of a Separate Bar Council for the Supreme Court.

95. As the Committee has recommended, every Advocate on the Common Roll shall be entitled as of right to practise in the Supreme Court and as such he would be amenable to the jurisdiction of the appropriate State Bar Councils and of the All-India Bar Council. The establishment of a separate Bar Council for the Supreme Court is not necessary. The Advocates ordinarily practising before the Supreme Court will have representation in their respective Bar Councils as well as in the All-India Bar Council as hereinbefore mentioned.

(vi) The Consolidation and Revision of the Various Enactments.

96. If the recommendations of this Committee are accepted there will have to be a consolidated Act incorporating the provisions of the existing Acts modified by the recommendations of this Committee. As some legal practitioners including Attorneys will still continue to be under the disciplinary jurisdiction of the Courts the relevant provisions of the Legal Practitioners Act and other enactments, if any, should be incorporated in the consolidated Act. Consequential amendments in other Acts such as the Stamp Act will also have to be made.

(vii) All other connected matters.

97. The recommendations made by the Committee will not be affected by e language problem. In order, however, that the national language may, in

course of time, be introduced in all courts, the preparation of the translations of the existing statutes and text books should be taken in hand and in future statutes should also be passed in the national language.

98. In conclusion the Committee wishes to express its appreciation of the assistance rendered by its Secretary, Sri P. N. Murty, by collecting materials, putting up notes and otherwise at all stages of the Enquiry.

Chairman. (Sd.) S. R. DAS.
Member. (Sd.) M. C. SETALVAD.
Member. (Sd.) TEK CHAND.*
Member. (Sd.) V. K. T. CHARI.
Member. (Sd.) V. RAJARAM IYER.*
Member. (Sd.) M. A. KAZMI.
Member. (Sd.) C. C. SHAH.†
Member. (Sd.) D. M. BHANDARI.

(Sd.) P. N. MURTY.
Secretary.

Dated, New Delhi, the 30th March, 1953.

*Subject to Note appended hereto.
†Subject to supplementary Note appended hereto.

NOTE BY BAKSHI TEK CHAND.

I am in complete agreement with the recommendations of the Committee as set out in the Report, except in regard to the following two matters:—

(I) I am unable to support the part of the recommendation contained in paragraphs 64 and 65 of the Report, which says that every Advocate on the Common Roll of Advocates to be maintained by the All-India Bar Council shall be entitled automatically to practise in the Supreme Court, without having practised in a State High Court at all.

The Federal Court was the first court established in this country with jurisdiction over the whole of India. Rule 4 of Order IV of the Rules framed in 1942 laid down that "a person shall not be entitled to be enrolled as an Advocate unless he is, and has been for not less than *ten* years in the case of a Senior Advocate or five years in the case of any other Advocate, enrolled as an Advocate in the High Court of a Province". Under those Rules it was not necessary that such Advocate should hold a degree in law of a University. When the Supreme Court was established on the 26th of January 1950, while the condition of ten years' prior practice in the High Court was maintained in the case of Senior Advocates, that for other Advocates was raised from 5 to 7 years. In addition, another condition was laid down that such Advocate must hold either a degree in law of an Indian University or be a member of the English Bar. Further, Rule 14 provided that enrolment fee of Rs. 500/- shall be paid by a Senior Advocate and of Rs. 250/- by every other Advocate. Under these Rules, the number of Senior Advocates on the roll of the Supreme Court on the 1st of January 1953 was 316, while that of other Advocates was 1019.

The majority of the Committee is in favour of abrogating these conditions altogether. The recommendation is that every Advocate of whatever standing, now practising in a High Court or who may hereafter be admitted to the roll shall automatically become entitled to practise in the Supreme Court. The number of Advocates at present on the rolls of High Courts is as follows:—

(*i*) in Part 'A' States	20,666
(*ii*) in Part 'B' States	5,553
(*iii*) in Part 'C' States	276
TOTAL ...	26,495

In addition, the Committee, in paragraph 62 of the Report, has recommended that the following classes of Legal Practitioners will be eligible for enrolment as Advocates on payment of certain fees:—

(*i*) All Vakils and Pleaders entitled to practise in the District and other Subordinate Courts of each State, who are Law Graduates,

(*ii*) All Vakils and Pleaders who are *not* Law Graduates but who, under the existing Rules, are entitled to be enrolled as Advocates of the High Courts.

The number of Vakils of both categories is 1,173 and that of Pleaders is 38,459. It is very likely that a large proportion of them (probably not less than one-half) will avail themselves of this concession. If the recommendations of the Committee are accepted, the number of Advocates eligible to practise in the Supreme Court may be in the neighbourhood of 50,000, of whom many may not have practised at all in a State High Court, and some may not hold a law degree.

I strongly feel that this will materially affect the quality of work, lower the standard of advocacy in the Supreme Court, and otherwise reduce the status of the Supreme Court Bar. I think that some conditions, including practice for a certain minimum number of years in a High Court, as are now in force, are very necessary and that it should be left to the Hon'ble Judges of the Supreme Court to prescribe them in the Rules to be framed from time to time.

I may also mention that these recommendations of the Committee, as contained in paragraph 64 and paragraph 65 are not supported by the weight of evidence contained in the Memoranda received by it as well as the statements of the witnesses examined. Three out of the four Memoranda, jointly sent by the Judges of certain High Courts, are either in favour of the present rule being maintained or a similar rule framed. The fourth has not suggested its abrogation; it is silent on the point. Most of the 17 Judges of the High Courts, who have individually sent their Memoranda, are also in favour of it. Notably among them are Shri P. V. Rajamannar, Chief Justice of Madras and Shri B. Jagannadha Das, Chief Justice of Orissa (now Judge of the Supreme Court). Of the retired Judges, Shri S. Varadachariar formerly of the Federal Court of India, Shri Jailal, *ex*-Judge of the Lahore High Court, Shri Bisheshwar Nath, retired Chief Justice of Hyderabad, either want the present rule to be maintained or the period of practice in a High Court to be raised.

A large majority of the Bar Associations have also expressed the view that a certain minimum number of years' practice in the High Court should be retained as a qualification. Among them are the Supreme Court Bar Association (7 years); the Bombay Bar Council (7 years); the Bombay Bar Association (7 years); the Bombay Advocates Association (7 years); the Calcutta High Court Bar Association (present rule); the Orissa Bar Council (present rule); the Jaipur Bar Association (special qualifications necessary); the Mysore Bar Association (present rule); and the Allahabad High Court Advocates' Association (7 years). To the same effect is the opinion of leading Advocates like Shri C. P. Ramaswamy Iyer (10 years); Shri G. S. Pathak (7 years); Dr. N. P. Asthana *ex*-Advocate-General, Allahabad (7 years); Shri K. Rajah Aiyar, *ex*-Advocate-General, Madras (present rule) and Shri K. Bhashyam Aiyangar, former Law Minister, Madras (10 years). The Hon'ble Mr. Justice Bhagwati, Shri Alladi Krishnaswami Aiyar and some others want the present classes of Senior and other Advocates in the Supreme Court to be maintained and this necessarily contemplates prior practice in the High Court for a certain period. It is only a very small minority among the individual lawyers who have expressed themselves in favour of doing away with this qualification altogether.

I do not think that the analogy of the House of Lords or the State Federal Courts in U.S.A. is apposite. It is true that in England, an Advocate of whatever standing has the right to appear in any Court including the House of Lords. But the conditions in that country are wholly dissimilar; there is a very high standard of literacy; there is uniformity of language; and there is the further fact that no Counsel can appear in any Court unless he is instructed and briefed by a Solicitor. In the United States of America, the Supreme Court has a separate Bar, which has a very small number of Advocates on its rolls. There is, of course, no such restriction in the State Federal Courts where an Advocate of whatever standing can appear, but there is a strong feeling that this has led to inefficiency and lowering of the standard.

(II) I cannot endorse without qualification the recommendation in paragraph 81 of the Report relating to the continuance of the Dual System on the Original Sides of the Bombay and Calcutta High Courts. While I would not suggest its abolition forthwith, I cannot support its continuance for ever or for an indefinite length of time, especially when the Hon'ble Judges of the Bombay High Court have expressed the opinion that "they feel that it would, perhaps, be desirable to make the system optional rather than compelling the litigants to come to this Court on its Original Side through the agency of a Solicitor and Counsel".....and it should be left to the Judges "to determine when the system should be changed from a compulsory one to an optional one." It seems to me that this is the correct position and I would suggest that the position in regard to the Calcutta High Court should also be the same.

(Sd.) TEK CHAND.

I am in full agreement with the views expressed by Dr. Bakshi Tek Chand in the above note.

(Sd.) V. RAJARAM IYER,
A. G., Hyderabad.

SUPPLEMENTARY NOTE.

BY SHRI C. C. SHAH.

This minute is not in any way in the nature of a minute of dissent but is only supplementary. In para. 12 of its report, the Committee has rightly stated that it is only concerned with the limited question relating to the unification of the legal profession and to the creation of an all-India Bar and that it is not for the Committee to assess the merits or demerits of the present legal system itself, out of which, as its corollary, has grown up the legal profession which one finds in India today.

2. There is a large volume of opinion in the country that this legal system is entirely foreign to the genius and the traditions of the people of this country who need a simpler, quicker and cheaper (if not an entirely free) system than the present dilatory and costly system.

3. I do not wish to say much about the delay and cost involved in the present system. They are too well known. More often than not, the delay and cost result in a denial of justice. There has been a persistent and growing demand for a radical change in the present system of administration of justice. It is not a question of a few changes here or there. Considering the poverty and illiteracy of the vast majority of the people, we need a system suited to the conditions in this country.

4. The Government of India appears to be alive to this important problem. It is understood that the Government is considering the question of a revision of the Criminal Procedure Code and Evidence Act and has invited the opinion of the State Governments. I, however, think that such piecemeal treatment of the problem will be very unsatisfactory. Moreover, it is not merely a question of amending or modifying the Criminal Procedure Code nor does the problem relate only to the administration of criminal justice. The whole system of administration of civil and criminal justice and of the constitution of the courts and of the legal profession and its remuneration need to be radically altered. It is not suggested that we can revert to the system that prevailed before the British introduced the present system. We shall have to evolve a system suited to the modern conditions of India. There is no doubt that the complexity and the rigidity of procedure—Civil and Criminal—involved in the existing system make it totally unsuited to the conditions in this country. The cost is prohibitive and at times ruinous. Other countries have evolved systems more simple, speedy and cheap. It will be necessary to study all those systems.

5. I would strongly urge upon the Government to appoint a Commission to examine all these problems. It is not an easy task but all the same it is very important and urgent. The Commission will have to consist of persons who can bring to bear upon the problems a fresh and original outlook. It will take time for such a Commission to evolve a satisfactory system but a beginning must be made without delay.

(Sd.) C. C. SHAH.

ANNEXURES

ANNEXURE A.

ALL-INDIA BAR COMMITTEE.

QUESTIONNAIRE.

(A) *Unification of Bar.*

1. Are you in favour of a completely unified Bar for the whole of India? Or, do you consider that the Bar should be organized on a State or regional basis, with separate provision for the Bar attached to the Supreme Court?

2. If your answer to the first part of Question No 1 is in the affirmative, do you consider it practicable to maintain one roll of Advocates who will be entitled to practise in all the courts of the country, from the highest to the lowest, with no special requirements for any particular courts?

3. If your answer to Question No 2 is in the affirmative, would you leave it to the Supreme Court to maintain such roll, and to effect admissions to it, either independently or through the agency of the High Court, or would you advocate that the function should be transferred, wholly or in part, to a Central Bar Council?

4. If you are in favour of the Supreme Court or a Central Bar Council, being entrusted with the function,

(*a*) What is the standard which should be adopted by that Court or the Central Bar Council for purposes of admission to the roll?

(*b*) Would you maintain a system of classification into senior and junior Advocates, as has been made by the Supreme Court in respect of its Advocates?

5. If you are in favour of organising the Bar in India on a State or regional basis,

(*a*) Would you advocate a unified bar and the maintenance of a common roll at the State or regional level ?

(*b*) What standard would you adopt for admission to the roll?

(*c*) What special requirements would you advocate, in that case, for the Bar of the Supreme Court?

(*d*) If your preference is for the organization of the Bar on a regional basis, how would you constitute the regions?

6. Do you consider it desirable and feasible that, in spite of the diversities of conditions in the different States, the qualifications for admission to the Bar should be identical throughout India? If so, would you suggest the adoption of any special measures towards the maintenance of uniform conditions?

7. Do you consider that admission should be to practise in all High Courts in India, or to practise in one High Court only? If you are in favour of the latter alternative, do you consider that persons admitted to practise in one High Court should thereby be entitled to practise in another High Court only in cases where a reciprocal agreement to that effect has been made, subject to the statutory right of an Advocate of the Supreme Court to practise in all High Courts?

8 Are you in favour of withdrawing from the High Courts, in whole or in part, their powers to admit, suspend and remove legal practitioners and to make rules regarding the qualifications for admission of practitioners, their fees, and the manner in which they shall practise?

9. Would you transfer all or any of the powers referred to in question 8 to a Central Bar Council for India or to Bar Councils constituted in the States at the headquarters of each High Court or to regional Bar Councils?

10. If you are in favour of the establishment of a Central Bar Council, do you consider:—

(1) that it should be separately constituted or composed of delegates from State or regional Bar Councils,

(2) that it should exercise original powers in respect of all or any of the matters referred to in question 8 or act as a consultative and advisory body to co-ordinate as far as possible the exercise by the State or regional Bar Councils of the functions assigned to them, with possibly powers to decide finally any doubtful questions which may be referred to them?

11. If you are in favour of the first alternative in Question 10 (2), would you reserve to the Supreme Court, concurrent powers in respect of matters transferred to the Central Bar Council?

12. If you are in favour of State or regional Bar Councils, how would you constitute them? Do you consider that all such Bar Councils should be constituted in the same way, or that different conditions in the various States or regions would necessitate different constitutions?

13. In your opinion, should the possibility of a national or regional language replacing English as Court language affect the Committee's conclusions on the questions referred to above? If so, in what manner and to what extent?

14. In addition to the matters referred to in Question 8, what other powers would you like to confer on the Central Council or State or regional Councils?

15. Would you confer such powers absolutely or subject to a right of appeal either to the High Court or to the Supreme Court?

16. Would you reserve to the High Court (or the Supreme Court) the power to require consideration by the State Bar Council of any particular matter and to revise the decision of the Bar Council?

17. If you are in favour of a separate Bar Council for the Supreme Court, how would you constitute it and what powers would you confer on that body? Would you confer such powers absolutely or subject to a right of appeal to the Supreme Court? Would you reserve to the Supreme Court the power to require consideration by the Bar Council of any particular matter and to revise the decisions of the Bar Council?

18. Are you of opinion that the time has come when the control of matters relating to professional conduct and etiquette might be removed from the hands of the High Courts?

19. If your answer is in the affirmative, do you think that it would be better to transfer such control to the Supreme Court, either in whole or in part?

(B) Dual System

20. Are you in favour of—

(*a*) the abolition of the dual system of counsel and solicitor (or attorney or "agent") which exists at present in the Supreme Court and the High Courts at Bombay and Calcutta? or

(*b*) maintaining the system as a lasting arrangement, or for a specified term, where it now exists?

21. If your answer to part (*b*) above is in the affirmative,

(*a*) would you recommend separate provision being made for the enrolment of solicitors (or attorneys or "agents")?

(*b*) If your answer to (*a*) above is in affirmative, what qualifications would you prescribe for enrolment as solicitors (or attorneys or "agents")?

22. If you are in favour of the complete abolition of the "dual system", what alternative arrangement would you suggest to meet the special requirements of the Supreme Court, having regard to its all-India jurisdiction and the rules of procedure which obtain in that Court?

(*C*) *Legal Profession.*

23. Do you consider that the time has come for the abolition of the different classes of legal practitioners, such as Supreme Court Advocates, High Court Advocates, District Court pleaders, mukhtars (who are entitled to practise only in criminal courts), revenue agents, income-tax practitioners?

24. If, in your opinion, all distinctions cannot be abolished,

(*a*) what classes of lawyers should be provided for?

(*b*) what should be their respective rights and privileges?

(*c*) what title or titles would you give to persons who practise—

(*i*) in the Supreme Court,

(*ii*) in High Courts and Courts subordinate thereto,

(*iii*) in Courts subordinate to High Courts and in revenue courts?

25. Would you like to maintain the lower grade of practitioners comprising those of various kinds who are only entitled to practise in courts subordinate to the High Court?

26. If so, would you reserve to the High Court, or transfer to the Bar Council, the power to make rules for the admission, suspension and dismissal of practitioners in the lower grade and for their fees?

27. Are you in favour of establishing District Bar Councils, to which would be delegated powers of control over the lower grade practitioners?

28. Would you include in such Councils only practitioners entitled to practise before courts subordinate to the High Court, or those entitled to practise in the High Courts also?

(*D*) *Legal Education.*

29. Are the existing law courses in the various Universities, in your opinion, sufficiently adequate and uniform in standard to form the basis of equal qualifications throughout India?

30. Do you consider that the educational and other qualifications for admission to practise in the High Courts and in the Supreme Court should be prescribed by Statute?

31. Are the existing law courses at the different Universities of a sufficiently high standard and sufficiently comprehensive to provide educational qualifications which should be required of the candidates for admission to practise in the High Courts and the Supreme Court?

32. If not, do you consider it feasible to establish a central controlling authority, on the lines of the Council of Legal Education in England? To achieve the object, would the remedy lie, in your opinion, in amending the law courses or in prescribing specific Bar examinations? What effect would the latter course have on the Faculties of Law?

33. Is the representation of the Bar on the University Faculties of Law adequate?

34. What other qualifications, if any, would you require before admission to practise in the High Courts and the Supreme Court, *e.g.*, service under articles, supervised attendance in courts, reading in chambers, or a period of practice in a lower court?

35. Are the qualifications now required in the case of Advocates high enough to be adopted for admission to practise in the High Courts?

36. In what way should the present system of legal education be modified with a view to provide for a national or regional language replacing the English language in due course as Court language?

(*E*) *Miscellaneous.*

37. Under what conditions would you admit Barristers of England or Ireland or Advocates of Scotland to the Bar in India?

38. Do you consider that any additional qualifications should be insisted upon in the case of the admission of Barristers-at-Law to the Bar in India, and, if so, what are the qualifications which you would suggest?

39. What criterion would you adopt in determining the seniority of practitioners and their rights of pre-audience?

40. Should all practitioners be able to sue for their fees and be liable to be sued for negligence?

41. What are the enactments (Central as well as State) relating to legal practitioners which, in your opinion, require revision with a view to bring about consolidation of the law on the subject; and in what directions and to what extent are they to be revised?

42. Please state whether in your opinion the matter of declaration of persons as touts should be given to the Bar Councils; and, if so, whether it should be within their exclusive jurisdiction or concurrent with the Courts?

43. Please state whether in your opinion Bar Councils should be empowered to create, if they think necessary, a Special Fund for the relief of the indigent, infirm or disabled members of the legal profession or the dependents of such deceased members.

Note:—Please state your reasons fully in support of any opinions expressed by you.

ANNEXURE B.

The following are the names of the High Courts, associations, institutions and individuals who submitted memoranda to the Committee:—

I. *High Courts.* 4

1. Bombay High Court.
2. Nagpur High Court.
3. Rajasthan High Court.
4. Saurashtra High Court

II. *Individual Judges* 19

1. The Hon'ble Shri Justice N. H. Bhagwati, Judge, Supreme Court.
2. The Hon'ble Shri P V Rajamannar, Chief Justice, Madras.
3. The Hon'ble Shri Justice Govinda Menon, Judge, High Court, Madras.
4. The Hon'ble Shri Justice Krishnaswami Nayudu, Judge, High Court, Madras.
5. The Hon'ble Shri Justice E. E. Mack, Judge, High Court, Madras.
6. The Hon'ble Shri Justice K Ramaswami Goundar, Judge, High Court, Madras.
7. The Hon'ble Shri T. V. Thadani, Chief Justice, Assam.
8. The Hon'ble Shri Justice Ram Labhaya, Judge, High Court, Assam.
9. The Hon'ble Shri Justice C. P. Sinha, Judge, High Court, Patna, Bihar.
10. The Hon'ble Shri Justice J L Kapur, Judge, High Court, Punjab.
11. The Hon'ble Shri Justice G D. Khosla, Judge, High Court, Punjab.
12. The Hon'ble Shri B. Jagannadha Das, Chief Justice, Orissa.
13. The Hon'ble Shri Justice C. B. Agarwala, Judge, High Court, Allahabad, Uttar Pradesh.
14. The Hon'ble Shri Justice P. N. Sapru, Judge, High Court, Allahabad, Uttar Pradesh.
15. The Hon'ble Shri Justice A. Srinivasachari, Judge, High Court, Hyderabad.
16. The Hon'ble Shri Justice Vithal Rao Deshpande, Judge, High Court, Hyderabad.
17. The Hon'ble Shri Justice P. Jaganmohan Reddy, Judge, High Court, Hyderabad.
18. The Hon'ble Shri Justice B. Vasudevamurthy, Judge, High Court, Mysore, Bangalore.
19. Shri H. R. Krishnan, Judicial Commissioner, Vindhya Pradesh, Rewa.

III. *Associations, etc.* 35

1. Supreme Court Bar Association, New Delhi.
2. Supreme Court Agents' Association, New Delhi.

3. District Bar Association, Silchar, Assam.
4. Advocates' Association, High Court, Patna, Bihar.

Part A States.

5 Bihar State Mukhtar's Association, Patna.
6. Bombay Bar Association
7. Bombay Incorporated Law Society.
8. The Bombay Legal Aid Society and the Bombay City Civil and Sessions Court Bar Association (Joint Reply).
9. Bar Council of the High Court of Judicature at Bombay.
10. Bombay Advocates' Association, Presidency Small Cause Court.
11 The Advocates' Association of Western India, High Court, Bombay.
12. Bombay Chamber of Commerce.
13 Bar Association, High Court, Nagpur.
14. Bar Council, High Court, Nagpur.
15. Provincial Bar Federation, Madras.
16 The Advocates' Association, High Court, Madras.
17. Bar Council, High Court, Madras.
18. The Kumbakonam Bar Association
19. Bar Council, Orissa High Court, Cuttack
20. Bar Association, High Court, Calcutta
21. Bar Library Club Calcutta.
22. Incorporated Law Society, Calcutta
23. The Bengal and Assam Lawyers' Association, Calcutta.
24. Bengal National Chamber of Commerce, Calcutta
25. Advocates' Association, High Court, Allahabad
26. U P. Lawyers' Conference, Dehra Dun.
27. Bar Association, Gorakhpur
28 Collectorate Bar Association, Bulandshahr, Uttar Pradesh

Part B States.

29. Hyderabad State Bar Association
30. Bar Association, Mysore
31. Bar Association, Faridkot, PEPSU
32. Bar Association, Jaipur, Rajasthan.
33. Bar Association, Ernakulam Travancore-Cochin, Union.

Part C States.

34. Bar Association, Bilaspur.
35. Bar Association, Manipur.

IV. *Ex-Judges of the Federal Court of India* 3

1. Sir Maurice Gwyer
2. Sir Patrick Spens.
3. Shri S. Varadachariar.

V. *Individual Lawyers* 63

Ajmer.

1. Shri M. S. Lalwani, Advocate, Mysore.

Bihar.

2. Shri B. V. Sinha, Principal, Patna Law College, Patna.

Bombay.

3. Shri H. D. Banaji, Senior Advocate, Supreme Court.
4. Shri K. R. Mehta, Advocate, Supreme Court.

5. Shri V. S. Ranade, Advocate, Bombay.
6. Shri S. Y. Abhyankar, Advocate, Bombay.
7. Shri N. H. Pandia, Attorney-at-Law, Bombay.
8. Shri Baliramsingh Patil, Pleader, Dhulia, West Khandesh.

Delhi.

9. Shri Sidney C. Isaacs, Senior Advocate, Supreme Court.
10. Shri Sanjeevarow Nayudu, Senior Advocate, Supreme Court.
11. Shri N. S. Bindra, Senior Advocate, Supreme Court.
12. Shri A. K. Sinha, Advocate, Supreme Court.
13. Shri B. B. Tawakley, Senior Advocate, Supreme Court.
14. Shri L. R. Sivasubramanian, Dean, Faculty of Law, University of Delhi.
15. Editor, Income-tax Gazette, Hyderabad.

Hyderabad.

16. Shri Bisheshwar Nath, Ex-Chief Justice, High Court, Hyderabad.
17. Raja Bahadur Aravamedu Aiyangar, Advocate.

Madhya Bharat.

18. Shri K. G. Vadjikar, Head of Law Department, Victoria College, Gwalior.

Madhya Pradesh.

19. Shri C. B. Parakh, Advocate, Nagpur.
20. Shri B. R. Mandlekar, Advocate, Nagpur.
21. Shri G. R. Pradhan, Head of the Department of Studies in Law, University of Nagpur.
22. Shri Y. S. Tambe, Principal, University College of Law, Nagpur.

Madras.

23. Shri Alladi Krishnaswami Iyer, Senior Advocate, Supreme Court.
24. Shri C. P. Ramaswami Aiyar.
25. Shri K. Rajah Aiyar, Senior Advocate, Supreme Court.
26. Shri K. Bhashyam, Senior Advocate, Supreme Court.
27. Shri M. K. Nambyar, Senior Advocate, Supreme Court.
28. Shri T. V Viswanatha Aiyar, Senior Advocate, Supreme Court.
29. Shrimati M A Janaki, Senior Advocate, Supreme Court.
30. Shrimati M. A. Rukmani and Shri M. A. Edugiri, Advocates, Madras.
31. Shri K. V. Krishnaswami Aiyar, Advocate, Madras.
32. Shri K. Krishna Menon, Ex-Principal, Law College, Madras.
33. Shri Govindarajulu Naidu, Principal, Law College, Madras.
34. Shri K. Nanjundiah, Advocate, and Public Prosecutor, Coimbatore and Nilgiris.
35. Shri K. V. Suryanarayana Ayyar, Advocate, Kozhikode.
36. Shri T. V. R. Appa Rao, Advocate, Narasapur.

Mysore.

37. The District Judge, Bangalore.
38. The District Judge, Civil Station, Bangalore.
39. The District Judge, Mysore.

40. The District Judge, Shimoga.
41. Shri Mirle Lakshminaranappa, Advocate.

Orissa.

42. Shri K. Satyanarayana Murty, University Professor of Law, Cuttack.

Punjab.

43. Shri Jai Lal, Retired Judge, High Court, Punjab.
44. Shri Jai Gopal Sethi, Senior Advocate, Supreme Court.
45. Shri Amolak Ram Kapur, Senior Advocate, Supreme Court.
46. Shri C. L. Anand, Principal, Law College, Jullundur.

Travancore-Cochin.

47. The Advocate-General, Ernakulam.

Uttar Pradesh.

48. Shri Gopal Swarup Pathak, Senior Advocate, Supreme Court.
49. Shri N. P. Asthana, Senior Advocate, Supreme Court.
50. Shri D. S. Misra, Senior Advocate, Supreme Court.
51. Shri Ram Nath Seth, Advocate, Kanpur.
52. Prof. K. R. R. Sastry, Senior Reader, University of Allahabad.
53. Shri S. S. Nigam, Dean, Faculty of Law, University of Lucknow.
54. Shri D. C. Kukreti, Pleader. Dehra Dun.

West Bengal.

55. Shri S. S. Mukherjee, Senior Advocate, Supreme Court.
56. Shri S. N. Banerjee, Registrar, (Original Side), High Court, Calcutta.
57. Shri N. C. Mitra, Solicitor to the State of West Bengal.
58. Shri S. K. Mandal, Solicitor to the Central Government at Calcutta.
59. Shri Atul Chandra Gupta, Senior Advocate, Supreme Court.
60. Memorandum submitted by Shri N. C. Sen and other Advocates.
61. Shri B. N. Das and other Advocates of Calcutta.
62. Editor, Indian Law Review, Calcutta.
63. Shri Makhanlal Choudhury, Pleader, Calcutta.

ANNEXURE C.

The following are the names of the Associations together with those of their respective representatives, the individuals and the educationists who favoured the Committee with their oral evidence:—

Associations: Supreme Court Agents' Association, Bar Association, Nagpur, Hyderabad Bar Association, Ernakulam Bar Association, Provincial Bar Federation, Madras; Calcutta Bar Association, Patna Advocates' Association, U.P. Lawyers' Conference, Dehradun; High Court Bar Association, Simla; Bombay Bar Association, Incoporated Law Society of Bombay, Incorporated Law Society of Calcutta, Bihar State Mukhtars' Association, Patna; West Bengal Mukhtars' Association, Calcutta, the U.P. Mukhtars' Conference, Meerut; and Bar Library Club, Calcutta. (Heard on November 6, 7 and 8 and December 6). They were represented, respectively by the following gentlemen:—

Supreme Court Agents' Association ...	Represented by Shri M. S. K. Aiyangar, assisted by Shri Rajendra Narain.
Bar Association, Nagpur	Represented by Shri P. Lobo.
Hyderabad Bar Association	Represented by Shri Hanumantha Rao, Vaishnawa.
Ernakulam Bar Association	Represented by Shri A. M. Thomas.
Provincial Bar Federation, Madras ...	Represented by Shri K. Rajah Iyer.
Calcutta Bar Association	Represented by Shri Atul Chandra Gupta, assisted by Shri Arun Kumar Dutt.
Patna Advocates' Association	Represented by Shri Baldeva Sahay.
U. P. Lawyers' Conference, Dehra Dun ...	Represented by Chaudhuri Haider Hussain, assisted by Shri Baleshwari Prasad and Shri Brij Kishore.
High Court Bar Association, Simla ...	Represented by Shri Kundan Lal Gosain, assisted by Shri Balraj Tuli, Shri Inder Dev Dua and Shri Jagdish Lal Bhatia.
Bombay Bar Association	Represented by Shri S. V. Gupte and Shri Jamshedji Kanga (assisted by Shri R. J. Colah).
Incorporated Law Society, Bombay	Represented by Shri D. P. Sethna, assisted by Shri N. H. Sethna and Shri M. B. Madgaukar.
Incorporated Law Society Calcutta ...	Represented by Shri S. N. Chaudhrmi.
Bihar State Mukhtars' Conference, Patna ...	Represented by Shri Sri Narain Taterway (Spokesman), assisted by Shri Bashista Narain.
West Bengal Mukhtars' Conference, Calcutta .	Represented by Shri Girindra Das Gupta (Spokesman), assisted by Shri Naraprasad Bhattacharia, Shri Sachindra Kumar Banerjee, Shri Ushapati Banerjee and Shri Satya-Saran Hazra
U. P. Mukhtars' Conference, Meerut ...	Represented by Shri Munshi Lal Mathur.
Bar Library Club, Calcutta	Represented by Shri A. K. Basu

Individuals: The Hon'ble Shri Justice N. H. Bhagwati, Judge, Supreme Court (November 8), and Shri C. P. Ramaswami Aiyar (December 7).

Educationists: Shri L R Sivasubramanian, Dean, Faculty of Law, University of Delhi, and Prof. K R R Sastry, Senior Reader, University of Allahabad (on December 6).

ANNEXURE D.

Name of State	Classes of legal practitioners recognised by the High Court.	Qualifications and rights of practice enjoyed by each class of practitioners.
1	2	3
	PART A STATES.	
1. ASSAM.	1. Advocates (including Barristers enrolled as Advocates).	*Advocates:* Qualifications for enrolment *vide* Ch. XIV of the Appellate Side Rules of the Calcutta High Court. They can practise in all courts of the State.
	2 Attorneys.	*Attorneys:* Qualifications *vide* Ch. II of the Original Side Rules of the Calcutta High Court. For rights of practice of Advocates and Attorneys *vide* Ch. II of the Legal Practitioners' Act.
	3 Pleaders.	
	4. Mukhtars.	*Pleaders and Mukhtars:* Qualifications for enrolment *vide* Ch. 37 of the Civil Rules and Orders of the Calcutta High Court. Their rights of practice are regulated by Ch. III of the Legal Practitioners' Act.
	5. Revenue Agents.	*Revenue Agents:* Qualifications for enrolment *vide* Assam Government's Notification No 3405-R, dated 17th August, 1914. For their rights of practice *vide* Ch. IV of the Legal Practitioners' Act.
2. BIHAR.	Advocates. Pleaders. Mukhtars.	*Advocates:* The following may be enrolled Barristers of England, Northern Ireland and members of the Faculty of Advocates in Scotland; Law graduates of recognised Universities; Pleaders of 3 years' standing and who are Law graduates and who are found fit to be made Advocates; persons who have presided as Judges of a civil court in Bihar for not less than 5 years Rights of practice are as prescribed in S. 14 of Bar Councils Act, 1926. *Pleaders:* Law graduates of recognised Universities or who have passed the Pleadership examination held under the rules in force up to 1938. Rights of practice are as prescribed in S. 8 of the Legal Practitioners' Act, 1879. *Mukhtars:* Persons who had passed the Mukhtarship examination held under the rules in force up to 1947. Rights of practice as prescribed in S. 9 of the Legal Practitioners' Act, 1879,

1	2	3
3. BOMBAY.	1. Advocates. 2. Attorneys. 3. Pleaders.	*Advocates:* Law graduates of recognised Universities, above the age of 21 years and who have passed the Bar Council examination for the office of advocates; or who prior to 1-1-29 passed the examination for the office of vakils; or who is a barrister of England, Ireland or a member of the faculty of Advocates, Scotland, may be enrolled as Advocates. Rights of practice are as prescribed in S. 14 of the Bar Councils Act, provided that in any suit on the original side or in an appeal from such suit, an advocate cannot appear unless instructed by an attorney. *Attorneys* · A Law graduate of any recognised University has to sign Articles of Clerkship for 3 years with an Attorney of the Bombay High Court and thereafter has to pass the Articled Clerk's Examination. Non-graduates who in the opinion of the C. J. and the J's appear to have been educated to the same standard may by special order be permitted to enter articles for a period of not less than 4 years. An attorney can practise in all Courts. An attorney though enrolled as an advocate cannot practise as an advocate on the original side Attorneys can only instruct advocates on the original side and cannot plead except in insolvency and chamber matters. An attorney cannot address the court on the appellate side unless he is enrolled as an advocate also. *Pleaders :* Entitled to practise within the district or districts for which they hold sanads in such courts as the Disctrict Judges assign. They can practise in all the criminal courts in the District and before certain tribunals and public officers.
4. MADHYA PRADESH	1. Advocates. 2. Pleaders.	*Advocates*: Barristers of England. N. Ireland and Members of the Faculty of Advocates in Scotland and Law graduates of recognized Universities may be enrolled as Advocates or Pleaders of the Nagpur High Court. Advocates may practies in all courts including the High Court. Pleaders may practise in all courts subordinate to the High Court.
5. MADRAS	1. Advocates. 2. Pleaders (Grade I). 3. Pleaders (Grade II).	*Advocates* : Law graduates enrolled in the High Court can practise in all civil and criminal courts in the State and in the State High Court. *Pleaders (Grade I) :* Law graduates and graduates who passed the High Court Pleadership examination (now discontinued) not enrolled in the High Court can practise in all civil and criminal courts of any three contiguous districts chosen by them.

1	2	3
MADRAS—(*Concld.*)		*Pleaders (Grade II)* : Graduates in arts only who have passed the above pleadership examination can practise in any District Munsiff's Court or Subordinate Judge's Court in any one district and in the court of any District Judge of that district exercising the powers of a small Causes Court and any criminal court of that District except the Sessions Court.
6. ORISSA	1. Advocates. 2. Pleaders. 3. Mukhtars.	*Advocates* : Law graduates of recognised Universities, Barristers of England, Northern Ireland and members of the Faculty of Advocates in Scotland may be enrolled as Advocates. Pleaders of not less than three years' standing and who are considered to be fit to become Advocates may also be enrolled. Advocates can practise in all courts including the High Court. *Pleaders:* Law graduates of recognised Universities (except the Nagpur University, in which case the person should be a permanent resident of Bihar or Orissa) and any person who has passed the Pleadership examination held under the rules in force prior to 1936. Pleaders can practice in all courts subordinate to the High Court and all Revenue Courts in the State. *Mukhtars:* Persons who have qualified in the Mukhtarship Examination held under the rules in force prior to 1947. They may practice in all civil and criminal courts subordinate to the High Court. A Mukhtar is not permitted to sign pleadings or address any civil court.
7. PUNJAB	1. Advocates. 2. Pleaders	*Advocates* The following may be enrolled as Advocates of the Punjab High Court:— Advocates of the Chief Court of Punjab (former) Vakils of the Lahore High Court; Members of the Bar of England, N. Ireland and Faculty of Advocates, Scotland; Solicitors of the Superior Courts of England, N. Ireland & Scotland. Pleaders of Subordinate courts who have regularly practised and who are found competent enough to practise as Advocates; Doctors of Laws and Masters of laws of the Punjab or Delhi Universities. Law Graduates of other Universities provided they held judicial office for not less than five years. Advocates can practise in all courts including the High Court in Punjab and Delhi.

1	2	3
PUNJAB (*Concld.*)		Ordinarily not more than ten persons shall be enrolled every year by the Hon'ble Judges in meeting only once a year. *Pleaders:* A Master of Laws or Bachelor of Laws of the Punjab and Delhi Universities Law graduates of other Universities will have to pass certain proficiency tests in certain Punjab Laws before enrolment. Pleaders can practise in all courts in Punjab and Delhi except the High Court. Ordinarily not more than ten persons shall be enrolled as pleaders every year by the Hon'ble Judges meeting only once a year.
8. UTTAR PRADESH	1. Advocates. 2. Pleaders. 3. Mukhtars. 4. Vakils.	*Advocates*: Should be either Barristers or Law Graduates of recognised Universities. They can appear, plead and act in all civil, criminal and revenue courts, including the High Court. *Pleaders*: Should be Law graduates and can appear, plead and act in any civil, criminal or revenue courts in the judgeship in which they are enrolled. *Mukhtars:* Should have passed the Mukhtarship examination (now discontinued) of the Allahabad High Court. They can appear, plead and act in any criminal or revenue courts in the judgeship to which they are enrolled. They can only act and not plead in subordinate civil courts. *Vakils :* Should have passed the Vakilship Examination (now discontinued) of the Allahabad High Court; can practise in all courts including the High Court.
9. WEST BENGAL	1. Advocates (including Barristers). 2. Attorneys. 3. Pleaders. 4. Mukhtars.	*Advocates :* The following may be enrolled:— Law graduates of recognised University who have served as apprentices under an approved advocate of the Calcutta High Court for at least one year. Pleaders who are law graduates with three years' standing Attorneys of Calcutta High Court with three years' standing. Qualified Advocates of other High Courts In the High Courts Advocates can only plead on the original side. On the appellate side and in all other courts they can appear, act and plead. *Attorneys :* The following may be enrolled:— Solicitors of the Supreme Court of England and Attorneys of the Bombay and Madras High Courts. Persons who are qualified in the Articled Clerks' Examination. Attorneys can act only and will not plead except in chamber matters.

1	2	3
WEST BENGAL—(*concld*).		*Pleaders*: Law graduates of recognised University (provided that graduates of Universities other than those at Calcutta, Dacca and Patna should pass a proficiency test in the vernacular of the District where they ordinarily wish to practise) who have undergone one year's probation and Pleaders of other High Courts of not less than three years' standing may be enrolled. They can appear, act and plead in all courts subordinate to the High Court and revenue officers as specified in their certificates of practice. *Mukhtars*: Persons who have qualified in the Mukhtarship Examination.

PART B STATES.

10. HYDERABAD	Three classes of legal practitioners. 1st Class. 2nd Class. 3rd Class.	*1st Class*: For appearing in the 1st Class Law Examination a person should be an Intermediate of any recognised University or a Maulvi Alim or Munshi Alim or hold any equivalent degree and should have had two years attendance at Law Classes. These legal practitioners can practise in all courts including the High Court. (This examination discontinued from 1951.) *2nd Class*: For appearing in the 2nd Class Law examination a person should be a Matriculate or Maulvi or Munshi or hold an equivalent degree and should have had two years' attendance in the law classes. These persons may practise in all courts except the High Court. (Abolished since 1951.) *3rd Class*: For appearing in the 3rd Class Law examination a person should have passed the Middle School Examination These persons can practise in District Courts and courts subordinate thereto. (Abolished in 1940.) The above-mentioned three grades have now been abolished and there will be no more admissions as I, II and III Grade Pleaders. But those already on the roll will continue to enjoy their privileges. The Bar Councils Act and the Legal Practitioners Act are now in force in the State.
11. MADHYA BHARAT	1. Advocates. 2. High Court Mukhtars. 3 District Court Pleaders. 4. District Court Mukhtars.	*Advocates*: The following may be enrolled :— Members of the Bar in England, N. Ireland and Faculty of Advocates, Scotland, Law graduates of recognised Universities. Persons who have served as judicial officers for not less than 3 years in any of the covenanting states.

1	2	3
MADHYA BHARAT—(*concld.*)		Advocates can practise in all courts including the High Court. *High Court Mukhtars* (*Only those on the rolls*): Persons who have qualified in the local examinations for High Court Mukhtarship in the various convenanting states. They can practise in all courts on the criminal side. *District Court Pleaders:* Law graduates of recognised University enrolled. They can practise in District and Sessions Courts and all courts subordinate thereto. *District Court Mukhtars* (*Only those already on the rolls*): Persons who have qualified in the local examinations in the various convenanting states. They can practise on the criminal side in District and Sessions Courts and all courts subordinate thereto.
12. MYSORE	1. Advocates. 2. Pleaders.	*Advocates* : The following may be enrolled as advocates :— Barristers of England, N. Irelgnd, Members of Faculty of Advocates, Scotland Law graduates of recognised University. Advocates, Vakils and Attorneys of the High Courts of the areas which were formerly known as British India. Any pleaders of not less than five years' standing and who are considered to be duly qualified for Advocateship. Advocates can appear, plead and act in all Courts including the High Court. *Pleaders :* Persons qualifying in the prescribed examination for pleadership or any person who has qualified to be a first grade pleader of any other High Court in the area which was formerly known as British India may be enrolled as Pleaders. Pleaders cannot practise in the High Court. They can practise in all civil courts in any one Division (there are 3 Divisions in the State) and in all criminal courts in the State.
13. PEPSU	1. Advocates. 2. Pleaders.	*Advocates :* The following may be enrolled :— Members of the Bar in England, N. Ireland and of the Faculty of Advocates in Scotland. Pleaders of five years' standing. Doctors and Masters of Laws of recognised Universities. Advocates of any other High Court in India.

1	2	3
PEPSU—(*Concld.*)		Advocates are allowed to practise in all courts including High Court. *Pleaders :* Law graduates of any recognised University in India may be enrolled. Pleaders are allowed to appear in all civil, criminal and revenue courts and offices except the High Court and the Revenue Minister's Court.
14 RAJASTHAN.	1. Advocates. 2 Pleaders. 3. Mukhtars (only those on the rolls).	The following may be enrolled as *Advocates:*— Members of the Bar in England, Northern Ireland and of the Faculty of Advocates in Scotland. Law graduates of recognised Universities. Any person who was on the rolls of Advocates or 1st Grade Vakil of any High Court or equivalent authority in any covenanting States of Rajasthan. Any duly qualified displaced legal practitioner who desires to become a domiciled resident of Rajasthan. Advocates can plead and act in all courts including the High Court. *Pleaders :* Law graduates of recognised Universities and any person who was on the roll of Pleader or Vakil (2nd Grade) on the roll of a High Court or equivalent authority in any of the convenanting States of Rajasthan may be enrolled as Pleader. Pleaders can practise in all courts except the High Court. *Mukhtars :* (Only those already on the rolls):—They can appear and plead in the sub-courts and revenue offices in which they were practising prior to 24-1-1951.
15. SAURASHTRA.	1. Advocates. 2. District Pleaders. 3. Vakils (Class I) 4. Vakils (Class II).	The following may be enrolled as *Advocates:*— Members of the Bar in England, N. Ireland and Faculty of Advocates in Scotland. Law graduates of Universities recognised by the High Court. Persons who have passed the examination for Vakilship of the Bombay High Court prior to 1929. Persons who have passed the examination of Advocateship of the Bombay High Court prior to 1941. Advocates are entitled to practise in all courts including High Court. *District Pleaders :* All persons mentioned as above may be enrolled. They are entitled to practise in the District and Sessions Court of the District to which they hold sanads

1	2	3
SAURASHTRA (*Concld.*)		*Vakils* (*Class I*) :—Persons holding sanads to praetise before Hazur Courts, District Courts, Courts of S-Nyayadhish, etc., in the convenanting States of Saurashtra. These persons may practise in District and Sessions Courts and courts subordinate thereto. *Vakils* (*Class II*) :—Porsons holding sanads to practise in other courts of the covenanting States. These persons may practise in subordinate civil courts.
16. TRAVANCORE COCHIN.	Advocates.	Only one class of legal practitioners known as Advocates is recognised by the High Court. Barristers of England and Northern Ireland and Members of the Faculty of Advocates of Scotland and Law graduates of recognised Universities may be enrolled as Advocates. Advocates can practise in all courts in the State including the High Court.

ANNEXURE "E".

The following information regarding the present system of legal education in the different Universities of India has been collected, in most cases directly from the Registrars of the Universities and in the others indirectly from the Delhi University Law School.

1. *Agra University.*

Standard of admission:	B.A., B.Sc., B.Com., B.Sc.Agr.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught.—Roman Law, Contracts, Easements, Torts, Evidence, Criminal Law, Criminal Procedure, Constitutional Law—Indian and English, Jurisprudence, Civil Procedure, Land Laws of U.P., Hindu Law, Muhammadan Law, Transfer of Property Act, Equity, Trusts, Specific Relief and Company Law.

2. *Aligarh University.*

Standard of admission:	Graduates of any recognised University.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: *LL.B. Previous.*—Seven Papers. Roman Law or Public International Law, the Law of Contract, the Law of Easements and Torts, the Law of Evidence, Criminal Law and Procedure, Constitutional Law, Mercantile Law or Income-Tax and Insurance Laws.

LL.B. Final.—Seven Papers. Code of Civil Procedure including Principles of Pleadings and Limitation, the Law relating to Land Tenures, Rent and Revenue either (*a*) as to Central Provinces, or (*b*) as to United Provinces, or (*c*) as to Bengal and Assam, or (*d*) as to Punjab, The Hindu Law, Muhammadan Law, the Law relating to Transfer of Property, etc., Equity with special reference to Trust and Specific Relief and Jurisprudence.

3. *Allahabad University.*

Standard of admission:	Only graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: *Previous Examination in Law.*—Seven Papers. Roman Law, Law of Contracts, Law of Easements and Torts, the Law of Evidence, Criminal Law and Procedure, Constitutional Law and Hindu Law.

Final Examination in Law.—Eight Papers. Civil Procedure including Principles of Pleading, Zamindari Abolition Act and Land Tenure Act, the Law of Partnership and Companies, Muhammadan Law, the Law relating to Transfer of Property, etc., Equity, Jurisprudence and Public International Law.

4. *Andhra University.*

Standard of admission to Degree Course:	A degree of Andhra University or its equivalent or Law Preliminary Examination of Andhra University.
Duration of Law Course:	Law Preliminary Course—One Year (for the benefit of Intermediates).
Degree Course:	Two years.
Number of Examinations held:	Three.

The following subjects are taught: Law Preliminary.—Five Papers. English based on prescribed books of Socio-Politico-Legal Interest (2 Papers), History of Social Institutions, Political Theory and Organization and Outlines of European History.

First Examination in Law.—5 Papers. Jurisprudence, Outline of Roman Law, Law of Contracts including the Indian Contract Act, the Negotiable Instruments Act and the Specific Relief Act, the Law of Torts and Criminal Law (comprising the Indian Penal Code and general Principles of Criminal Liability).

B.L. Degree.—Seven Papers. Property—General Principles including Trusts and Easements, Transfer of Property Act (Specific Transfers), Hindu Law, Muhammadan Law and the Indian Succession Act, Constitutional Law of India along with a general survey of the Constitutions of Great Britain and the Dominions, the Law of Evidence, and Elements of Public International Law (Peace).

5. *Banaras University.*

Standard of admission:	——
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught.—Constitutional Laws of England and India, Jurisprudence, Roman Law, Contracts, Mercantile Law, Torts, Evidence, Company Law, Criminal Law, Criminal Procedure, Equity, Trusts, Specific Relief, Transfer of Property Act, Easements, Muhammadan Law, Civil Procedure, Limitation, Land Laws of U.P.

6. *Baroda University.*—Baroda University has not yet started Law Courses.

7. *Bombay University.*

Standard of admission to the Degree Course·	A degree of Bombay University or its equivalent or Law Preliminary Examination of Bombay University.

Candidates for the degree of LL.B. must have passed the Intermediate Arts or the Intermediate Commerce Examination of Bombay University or the Intermediate Arts or Commerce Examination recognised as equivalent thereto will be required to pass three examinations, the first to be called the "Law Preliminary Examination", the second to be called the "First Examination for the Degree of LL.B." and the third to be called the "Second Examination for the Degree of LL.B.".

Candidates who have passed the Bachelor's Degree Examination of this University in the Faculties of Arts or Commerce or any other University recognised as equivalent thereto will not be required to pass the Law Preliminary Examination and will be entitled to enter upon the course for the First Examination for the Degree of LL.B.

Candidates who have passed the Bachelor's Degree Examination of Bombay University in Agriculture, Medicine or of any other University recognised as equivalent thereto will be eligible for admission to the Law Course but will be required to pass the Law Preliminary Examination.

Number of Examinations held: Two or three as the case may be.

The following subjects are taught: Law Preliminary Course.—Five Papers. English Texts—Prose and Poetry, English—Essay, Precise and Composition, Outlines of Social, Economic and Constitutional History of India from 1773 to the 26th January 1950, History and Development of Social Institutions and Theory of Politics.

First LL.B. Examination Course.—Six Papers. Law of Crimes with Special Reference to the Indian Penal Code, the Law of Torts, the Principles of the Law of Contract with special reference to the first 75 sections of the Indian Contract Act, the Principles of the Law of Indemnity, Bailments, Surety, Agency, Sale of Goods, Partnership and Negotiable Instruments, Elements of Constitutional Law and Indian Constitution.

Second LL.B. Examination Course.—Six papers. Hindu Law, Muhammadan Law and the Indian Succession Act, the Law of Property, Easements and Registration Act, Equity, Trust and Specific Relief, Elements of Public International Law and Jurisprudence and Private International Law (Conflict of Laws).

8. *Calcutta University.*

Standard of Admission:	Only graduates are admitted.
Duration of Law Course:	Three years.
Number of Examinations held:	Three—Preliminary, Intermediate and Final.

The following subjects are taught: *Preliminary Examination.*—Four Papers. Jurisprudence, Roman Law, Hindu Law and Constitutional Law.

Intermediate Examination.—Four Papers. Muhammadan Law, and the Law relating to Persons (one Paper), the Law relating to Property, including the Law of Transfer *inter vivos* and Principles of the English Law of Real Property and the Law of Intestate and Testamentary Succession (exclusive of Hindu Law and the Muhammadan Law of Intestate Succession (two Papers) and the Law of Contracts and Torts (one Paper).

Final Examination.—Four Papers. The Law relating to Property, including the Law of Land Tenures, Land Revenue and Prescription, the Principle of Equity, including the Law of Trusts, the Law of Evidence and the general principles of Civil Procedure and Limitation and the Law of Crime and the general principles of Criminal Procedure.

9. *Delhi University.*

Standard of admission: Only graduates are admitted.

Duration of Law Course —The duration of the Law Course for the LL.B. degree is two years For those who wish to practise under the jurisdiction of the Punjab High Court, there is a special one year's additional course, known as Certificate of Proficiency Examination (Punjab).

Number of Examinations held.—For the LL.B. degree, there are two examinations, one at the end of each year.

The following subjects are taught —Previous Examination in Law. Seven Papers. Roman Law or Outlines of Indian Legal History, Law of Torts, Constitutional Law, English and Indian, Law of Contracts, Hindu Law, Muhammadan Law, Equity with special reference to the Law of Trusts and Specific Relief.

Final Examination in Law.—Seven Papers. Mercantile Law, Criminal Law and Procedure, Jurisprudence, Civil Procedure, Law of Evidence, Transfer of Property and Easements, Public International Law or Private International Law or Law of Land Tenures, Rent and Revenue in the Uttar Pradesh or Punjab Land Laws and Customary Law or with the permission of the Dean the Law of Land Tenures, Rent and Revenue of any other State in the Indian Republic.

Certificate of Proficiency Examination.—Five Papers. (The course of study for the examination extends over a period of one academic year.) Punjab Land

Laws and Customary Laws, Minor Acts (Registration Act, Majority Act, Guardian and Wards Act, Stamp Act, Court Fees Act and Suit Valuation Act), Pleadings and Conveyancing, Law of Arbitration and Insolvency, Law of Limitation and Prescription.

Note.—A course of lectures on Legal Ethics is provided, of which at least 75 per cent. have to be attended by every student. No examination by the University is held in this subject but attendance at the lectures is a condition precedent to the admission to the examination.

10. *East Punjab University.*

Standard of admission: Only graduates are admitted.

Duration of Law Courses.—Two years for the LL.B. degree after graduation in Arts or Science. But mere LL.B. degree does not entitle the candidate to be enrolled as a Pleader of the High Court. Those who wish to practise have also to attend a further course of one year in procedural subjects, etc., in the Punjab University Law College and pass the LL B. Final Examination of the Punjab University.

Number of Examinations held:

1. Two annual Examinations known as the Preliminary and the LL.B. for the LL.B. degree of the University.
2. The LL.B. Final Examination at the end of third year for those who seek enrolment as Pleaders.
3. Special Test in Law Examination for Law Graduates of other Indian Universities who desire to become Pleaders of Punjab High Court.

The following subjects are taught: *Preliminary Examination in Law.*—Four Papers. Jurisprudence and Principles of Roman Law, the Constitution of India and its historical background, General Principles of Hindu Law, Muhammadan Law, and Punjab Customary Law (with special reference to select portions to be fixed by the Board of Studies), and General Principles of the Law of Contract and Specific Relief.

LL.B. Examination.—Six Papers. Law of Property (Trust Act, Transfer of Property Act, and Easements Act), General Principles of Criminal Law and Procedure (with special reference to selected portions to be fixed by the Board of Studies), General Principles of the Law of Torts, Mercantile Law (Syllabus for this subject will be prescribed by the Board of Studies out of the following branches of Law:—Negotiable Instruments. Sale of Goods, Partnership, Companies, Agency, Bailment, Insurance, Patents and Trade Marks), Public International Law or Private International Law and Law of Evidence.

LL.B. Final Examination.—Six Papers. Civil Procedure and Limitation, Pleadings and Conveyancing, Punjab Land Revenue, Tenancy and Pre-emption Acts, Special Acts (the Majority Act, the Guardian and Wards Acts, the Court Fees and Suits Valuation Acts, the Registration Act, the Provincial Insolvency Act and the Stamp Act), Selected Judgments (these will be prescribed by the Board of Studies and will be read in original from the Law Reports, General Principles of Legal Ethics (Optional). This will come in force with the Examinations to be held in 1954.

Special Test in Law Examination.—Punjab Land Revenue, Tenancy and Pre-emption Acts and Punjab Customary Law.

11. *Gauhati University.* Same as Calcutta.

12. *Gujarat University.*

Standard of admission to Degree Course:	A Degree of Gujarat University in Arts or Commerce or equivalent thereto or Law Preliminary Examination of Gujarat University.

Note.—Candidates who have passed the Bachelor Degree Examination of Gujarat University in Agriculture, Medicine or Engineering or in any other Faculty except Arts or Commerce or of any other University recognised as equivalent thereto will be eligible for admission to the Law Course but will be required to pass the Law Preliminary Examination.

Duration of Law Course:	Law Preliminary Course: One year (for the benefit of Intermediates).
Degree Course:	Two years.
Number of Examinations held:	Three or two as the case may be.

The following subjects are taught: Law Preliminary Course.—Five Papers. English Texts—Prose and Poetry, English—Essay, Precis and Composition, Outline of Social, Economic and Constitutional History of India from 1773 to the 26th January, 1950, History and Development of Social Institutions and Politics

First LL.B. Examination Course.—Five Papers. Law of Crime with special reference to the Indian Penal Code, Law of Torts, Principles of the Law of Contract with special reference to the first 75 sections of the Indian Contract Act and the Principles of the Law of Indemnity, Bailments, Surety, Agency, Sale of Goods, Partnership and Negotiable Instruments, Elements of Constitutional Law and Indian Constitution.

Second LL.B. Examination Course.—Six Papers. Hindu Law, Muhammadan Law and Indian Succession Act, Law of Property, Easements and Registration Act, Equity, Trusts and Specific Relief, Elements of Public International Law and Jurisprudence and Conflict of Laws.

13 *Lucknow University.*

Standard of admission:	Only Graduates are admitted.
Duration of Law Course.	Two years.
Number of Examinations held:	Two—Previous and Final.

The following subjects are taught· Previous Examination in Law: Eight Papers. Public International Law, Legal History, Law of Evidence, Indian Constitutional Law, Law of Contracts and Specific Relief, Law of Torts and Easements, Law of Partnership and Companies and Law of Agency, Sale of Goods and Negotiable Instruments.

Final Examination in Law —Seven Papers. Equity, Trusts and Transfer of Property, Criminal Law and Procedure, Hindu Law, Muhammadan Law, Civil Procedure, Pleadings and Limitation, Jurisprudence, the Law relating to Land Tenures, Rent and Revenue in the United Provinces of Agra and Oudh or Labour Law or Private International Law or Law of Income-tax.

14. *Madhya Bharat University.*

Standard of admission:	Only Graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: *LL.B. Previous.*—Seven Papers. Roman Law, the Law of Contracts, the Law of Easements and Torts, the Law of Evidence, Criminal Law and Procedure, Constitutional Law and Jurisprudence.

LL.B. Final.—Seven Papers. Civil Procedure including Principles of Pleading and Limitation, the Law relating to Land Tenures, Rent and Revenue in Uttar Pradesh or Madhya Pradesh or Madhya Bharat, Hindu Law, Muhammadan Law, the Law relating to Transfer of Property including relevant Principles of Equity, Equity with special reference to the Law of Trusts and Specific Relief and Company Law and Income-tax Law.

15. *Madras University.*

Standard of admission:	A degree of Madras University or a degree of some other University accepted by the Syndicate as equivalent thereto.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: *First Examination in Law.*—Six Papers. Jurisprudence, Roman Law, the Law of Contracts, including Negotiable Instruments and Specific Relief (Two papers), the Law of Torts and Criminal Law.

B.L. Degree Examination.—Seven Papers. The Law of Property, with special reference to the Transfer of Property Act, the Indian Trusts Act, the Indian Easements Act and the Succession Act (Two papers), Hindu Law, Muhammadan Law, International Law of Peace, the Law of Evidence, and the Indian Constitutional Law.

16. *Mysore University.*

Standard of admission:	Only graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: *First Examination in Law.*—Six Papers. Jurisprudence, Roman Law, Contracts (Two Papers), First Paper—General Principles of the Law of Contracts including the Law of Agency and Specific Relief. Second Paper—The Law of Contract including Sale of Goods, Partnership, Bailment, Suretyship and Negotiable Instruments; Law of Torts, Criminal Law and Criminal Procedure Code (general provisions only).

B.L. Degree Examination.—Seven Papers. Law of Property [Two Papers—*First Paper.* Transfer of Property Act. Sections 1—53-A, with a comparative study of the general Principles of English Law of Real Property, Trusts Act and Easements Act, *Second Paper*—Transfer of Property Act, Sections 54—137 and Mysore Land Revenue Code], Hindu Law, Muhammadan Law and Indian Succession Act, Constitutional Law—Indian and English, Law of Evidence, Civil Procedure Code and Limitation Act (General Provisions only), Public International Law (Law of Peace including the Constitution of the United Nations).

17. *Nagpur University.*

Standard of admission:	Only graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught: Previous Examination in Law. Seven Papers. Jurisprudence, Constitutional Law, Roman Law, Law of Contracts, Law of Evidence, Criminal Procedure and Criminal Law and Law of Easements and Torts.

Final Examination in Law.—Seven Papers. Hindu Law, Muhammadan Law, Law of Land Tenures, Law relating to Property, Civil Procedure Code, Principles of Equity, including Trusts and Specific Relief and Special Acts.

18. *Osmania University.*

Standard of admission:	Only graduates in Arts, Science or Agriculture are eligible for admission to the LL.B.
Duration of Law Course:	Two years.
Number of Examinations held:	Two—Previous and Final.

The following subjects are taught: *LL.B. Previous.*—Six Papers. Law of Contracts and Sale of Goods Act, Law of Evidence, Criminal Law and Procedure, Constitutional Law (Hyderabad, India and England), Torts and Easements and Roman Law or Conflict of Laws or Current International Relations.

LL.B. Final.—Six Papers. Muslim Law, Hindu Law, Transfer of Property, Land Tenure and Atiyat, Civil Procedure, Civil Courts Act and Limitation Act. Jurisprudence and Public International Law and Company Law and Partnership or Trust and Specific Relief or Diplomacy.

19. *Patna University.*

Standard of admission:	Only graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two. Law Examination, Part I and Law Examination, Part II.

The following subjects are taught: *Law Examination, Part I.*—Five Papers. Jurisprudence and Theory and Principles of Legislation, Hindu Law and Muhammadan Law excepting Succession in Muhammadan Law, Indian Penal Code and the Criminal Procedure Code, Indian Contract Act and the Law of Torts and any *one* of the following subjects:—(*a*) (1) Indian Companies Act, (2) Indian Partnership Act, (3) Negotiable Instruments Act, (4) Indian Sale of Goods Act [Only parts of these Acts are prescribed], (*b*) Maine's Ancient Law and Roman Law, (*c*) Constitutional Law—British and Indian, and (*d*) Public International Law.

Law Examination, Part II.—Five Papers. Indian Evidence Act and the Indian Limitation Act, excluding Articles, Transfer of Property Act and selected Sections of the Indian Succession Act and Indian Registration Act, Civil Procedure Code, Indian Arbitration Act and Provincial Small Cause Courts Act, Bihar Tenancy Act or Chota Nagpur Tenancy and Reg. XI of 1825 and any *one* of the following:—(*a*) The Principles of Equity including the Indian Trusts Act and the Specific Relief Act, (*b*) Private International Law, (*c*) Pleadings, Conveyancing and Drafting, (*d*) Indian Income-tax Act, Bihar Agricultural Income-tax Act and Bihar Sales Tax Act, (*e*) Indian Factories Act, the Workmen's Compensation Act, the Industrial Disputes Act and the Indian Trade Unions Act.

20. *Poona University.* Same as Bombay.

21. *Rajputana University.*

Standard of admission:	Only graduates are admitted.
Duration of Law Course:	Two years.
Number of Examinations held:	Two—LL.B. Previous and LL.B. Final.

The following subjects are taught: *LL.B. Previous.*—Seven Papers. Equity with special reference to the Law of Trusts and Specific Relief, the Law of Contracts, the Law of Easements and Torts, the Law of Evidence, Criminal Law and Procedure, Constitutional Law and Jurisprudence.

LL.B. Final.—Seven Papers. Civil Procedure, including Principles of Pleading and Limitation, the Law relating to Land Tenure, Rent and Revenue in the United Provinces of Agra and Oudh to be substituted by the U.P. Zamindari Abolition Act with effect from the Examination of 1954 or Central Provinces Rent and Revenue Laws, Hindu Law with Statutory modifications thereof. Muhammadan Law with Statutory modifications thereof, the Law relating to Transfer of Property, including the Principles of Equity in so far as they relate to the subject, Public International Law or Private International Law and Company Law and Income-tax Law.

22. *Saugor University.*

Standard of admission:	Degree Examination of a recognised University.
Duration of Law Course:	Two years.
Number of Examinations held:	Two, one for the Previous and the other for the Final.

The following subjects are taught: *LL.B. Previous.*—Seven Papers. Jurisprudence, Constitution of India, Law of Land Tenures in Madhya Pradesh, Law of Contracts, Law of Evidence, Law of Easements and Torts and Criminal Law and Procedure.

LL.B. Final.—Seven Papers. Hindu Law, Muhammadan Law, Outlines of Historical Jurisprudence, Law relating to Property, Civil Procedure Code, Principles of Equity including Trusts and Specific Relief and Public International Law.

23. *Travancore University.*

Standard of admission:	B.A. or B.Sc.
Duration of Law Course:	Two years.
Number of Examinations held:	Two.

The following subjects are taught.—Roman Law, Contracts, Specific Relief, Negotiable Instruments, Torts, Specific Relief (only Indian), Transfer of Property Act, Trusts, Easements, Hindu Law, Muhammadan Law, and Laws of Madras, Evidence and Criminal Law.

24. *Utkal University.*

Standard of admission:	Any registered candidate of the University who has passed B.A., B.Sc., B.Com., B.C.L., or M.B.B.S. Examinations.
Duration of Law Course:	Two years.
Number of Examinations held:	Two, Law Part I and Law Part II.

The following subjects are taught: *Law Part I.*—Six Papers. Law of Crimes and Criminal Procedure, Hindu Law, Law of Contract and Law of Torts, Principles of Law of Evidence, Roman Law and International Law relating to Peace and Jurisprudence.

Law Part II.—Six Papers. General Principles of Law relating to Landlord and Tenant in India with special reference to Provincial Acts and Regulations, Civil Procedure and Pleading, Constitutional Law of England and India, Principles of Muhammadan Law (omitting Succession to distant kindreds), the Law relating to Prescription and Easement and Principles of Law of Limitation, the Law of Transfer of Property, Law of Registration, Testamentary and Intestate Succession (excluding Hindu and Muhammadan Laws of Intestate Succession) and Equity and Trust and Specific Relief Act.

ANNEXURE "F".

Statement showing the total number of the different classes of legal practitioners enrolled in Part A, Part B, and Part C States as on the 31st March, 1952.

Part A States.	Advocates.	Vakils.	Pleaders.	Mukhtars.	Remarks.
1. Assam ...	227	...	443	157	
2. Bihar ...	1264	...	6571	2276	Mukhtarship Examination has been abolished from the beginning of the year 1948.
3. Bombay ...	4709	...	10208	...	No general permission is granted to persons to practise as Mukhtars.
4. Madhya Pradesh ...	682	...	1807	...	Vakils and Mukhtars not enrolled.
5. Madras ...	7268	...	1015	28	1st Grade Pleaders 916, 2nd Grade Pleaders 99.
6. Orissa ...	191	...	638	181	...
7. Punjab ...	1178*	...	850*	2	*Figures include 640 Advocates and Pleaders of Delhi. Mukhtars and Vakils are not enrolled.
8. Uttar Pradesh ..	2559	...	5216	2000	Mukhtars are not being recruited since 1927.
9 West Bengal ...	2558	692*	4233	1582	Enrolment of Vakils stopped since 1st July, 1928, the date on which the Indian Bar Councils Act, 1926, came into force. No Vakil is entitled to practise in the High Court unless enrolled as an Advocate under the aforesaid Act. *Represents the number who have not yet enrolled as Advocate.
Part B States.					
10. Hyderabad ...	377	...	2447*	...	*1st Grade Pleaders 1273. 2nd Grade Pleaders 966. 3rd Grade Pleaders 208.
11. Madhya Bharat ...	916	...	513	104*	*High Court Mukhtars 10. District Court Mukhtars 94.
12. Mysore ...	903	...	476	...	...
13. P.E.P.S.U. ...	205	...	311	...	...
14. Rajasthan ...	745	...	1336*	...	*1st Grade Pleaders 1242. 2nd Grade Pleaders 94.
15. Saurashtra ...	332	351	134	...	Vakils are Sanadi Vakils Pleaders are District Pleaders.
16. Travancore-Cochin.	2075	...	1674*	...	*Includes Pleaders and Vakils.

Part C States.	Advocates.	Vakils.	Pleaders.	Mukhtars.	Remarks.
17. Ajmer ...	115		43	.	...
18. Bhopal ...	16	130*	15	..	*1st Class Vakils 43. 2nd Class Vakils 39. 3rd Class Vakils 48. Vakils Class I are entitled to appear and plead in the J.C's Court.
19. Bilaspur ..	10	...	4	...	Pleaders 1st Grade 3. Pleaders 2nd Grade 1.
20. Coorg ...	14	...	3	...	...
21. Delhi ...	...	...	...	...	Please see under Punjab.
22. Himachal Pradesh.	79	...	82	.	Pleaders 1st Grade 64. Pleaders 2nd Grade 18.
23. Kutch ..	...	...	119*	..	*75 are enrolled in Roll A of Pleaders to plead and act in the 'J.C's Court, 44 are enrolled in Roll B of Pleaders to whom sanads are issued to Plead and act in the Taluka Subordinate Courts only. Pleaders in Roll A are entitled to plead and act in all the Courts of the State.
24. Manipur ...	...	...	15	.	
25. Tripura ...	33	...	109	...	*Pleaders Class I 78. Pleaders Class II 31.
26. Vindhya Pradesh.	9	.	195	..	

Statement showing the total number of the different classes of legal practitioners enrolled in the Supreme Court of India as on the 31st December, 1952.

1.	Senior Advocate ...	315
2.	Junior Advocate ...	1019
3	Agent	146

2Law—5,000—29-4-53—PP.